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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports of States parties due in 1997

CHILE*

[10 October 1999]

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* For the initial report submitted by Chile, see document CRC/C/3/Add.18. For its consideration by the Committee, see documents CRC/C/SR.146, 147 and 148 and CRC/C/15/Add.22.

CONTENTS

Page

INTRODUCTION 3

I. GENERAL MEASURES OF IMPLEMENTATION 5

II. DEFINITION OF THE CHILD 29

III. GENERAL PRINCIPLES 35

IV. CIVIL RIGHTS AND FREEDOMS 47

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE 66

VI. BASIC HEALTH AND WELFARE 90

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES 121

VIII. SPECIAL PROTECTION MEASURES 170

Annex Projects concerning children and young persons period 1993-1997 206

INTRODUCTION

1. This document is the second report of the State of Chile on the degree of advancement and the implementation at the national level of the rights established in the Convention on the Rights of the Child, to be submitted to the United Nations Committee on the Rights of the Child under article 44 of the Convention.

2. The report takes into account the legislative, administrative and programmatic measures taken by Chile in order to deliver the rights recognised in the Convention between 1993 and October 1998.

3. It was drafted in accordance with the "General guidelines regarding the form and contents of periodic reports to be submitted by States parties" formulated by the Committee on the Rights of the Child.

4. The Ministry of Planning and Cooperation (MIDEPLAN) was entrusted with the responsibility of coordinating the drafting of the report; for this purpose it had the invaluable assistance of the Ministries of Justice, Education, and Health and of the Secretariat-General of the Presidency and the National Service for Women.

5. By studying in the report the various legislative, administrative and programmatic measures taken by the State it is possible to discern a series of advances, including:

(a) In legislative matters:

(i) Promulgation of a set of laws seeking to amend internal legislation to take account of the rights recognised in the Convention, including: the Filiation Act, which eliminates all forms of discrimination against children resulting from their parentage; legal measures to punish the abduction of children and their illicit removal abroad; and laws to punish all forms of child abuse and family violence;

(ii) Promulgation of the Social Integration of Disabled Persons Act and of the Indigenous Peoples Act, both of which are designed to eliminate discrimination against these specific groups;

(iii) Adoption of a series of laws concerning respect for and full recognition of the fundamental freedoms and concerning safeguards for children deprived of their liberty. This legislation includes an act prohibiting the holding of minors in prisons and a decree of the Ministry of Justice approving the regulations on children's homes and care institutions, which states the determination of the present Government to bring the legislation into line with the precepts of the Convention in order to ensure that these homes and institutions duly respect the rights of the children and young people whom they assist.

(b) In administrative and programmatic matters:

(i) As mentioned in the first report, in 1990 Chile produced the National Plan for Children (PNI)*. During the period covered by this second report the

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* Translator's note: also referred to in the initial report as the National Plan of Action in Favour of

PNI has been implemented under the auspices of MIDEPLAN. Regional children's plans have also been established in the country's 13 regions pursuant to the commitment to decentralize the PNI;

(ii) An intersectoral working group has been set up to take charge of coordination at the central level; its task is to produce a national policy for children. A number of intersectoral committees have also been established in order to carry out specific measures in certain areas: child labour, preschool education, and prevention of drug addiction;

(iii) At the local level, the creation of the Network of Municipalities for Children marked an important step forward, for this Network brings together and coordinates the various municipalities which are carrying out measures for children in their respective communes. Again at the local level, attention is drawn to the start-up of the programme for consolidation of local action for children, coordinated by the Solidarity and Social Investment Fund (FOSIS);

(iv) Where health is concerned, mention may be made of the significant decline in infant mortality and malnutrition and in maternal mortality, the high rate of cover of professional attendance at childbirth, the considerable increase in maternal breastfeeding, and an extensive immunization programme;

(v) The reform of Chile's education system has made good progress. It addresses the forms of teaching and learning, the duration of schooling, curriculum content, and the gradual but sustained improvement of teachers' skills and working conditions. This process of qualitative change in education is one of the big reforms introduced by the second Government of the Concertación de Partidos para la Democracia (Coalition of Parties for Democracy) and it will bring about a substantial improvement in the education provided for Chile's children.

6. Despite the progress made, however, major shortcomings and challenges remain:

(a) The fact that a large number of children live in poverty, most of them members of low-income groups; priority action must be taken for these children;

(b) The lack of a national policy for children accepted and supported by all the actors in the various public and private projects to assist children;

(c) The lack of a system for monitoring the programmatic, legislative and administrative measures with a view to ensuring the effective application of the Convention.

7. These and other challenges mean that Chile must undertake to continue its efforts to provide its children with a better quality of life, both now and in the future.

Children (PNI).

I. GENERAL MEASURES OF IMPLEMENTATION
(Articles 4, 42 and 44, paragraph 6)**

11. In the spirit of the World Conference on Human Rights, which encouraged States to consider reviewing any reservation with a view to withdrawing it, please indicate whether the Government considers it necessary to maintain the reservations it has made, if any, or has the intention of withdrawing them.

8. Chile has not made any reservations to the Convention.

12. States parties are requested to provide relevant information pursuant to article 4 of the Convention

- **Any new laws or codes adopted, as well as amendments introduced into domestic legislation to ensure implementation of the Convention.**

9. Chile has not to date enacted a children's code incorporating the rules established in the Convention, but see below for changes or amendments to domestic legislation to ensure the Convention's implementation .

13. Please indicate the status of the Convention in domestic law.

10. Chile's ratification of the Convention invests it with constitutional status in the juridical system by virtue of the provisions of article 5.2 of the Political Constitution of the Republic, which makes an explicit reference to the international human rights treaties ratified by Chile.

With respect to recognition in the Constitution or other national legislation of the rights set forth in the Convention;

11. The past five years have seen the enactment of a number of laws relating to children which demonstrate the progress made in adapting Chile's legal order to the Convention; they deal with the following topics:

Modification of the legal capacity of persons

12. In accordance with the provisions of article 1 of the Convention, Act n° 19,221 of June 1993 establishes rules on the age of majority for persons who have reached the age of 18 years and amends the indicated legislation.

Act establishing and regulating the property rights ~~and~~ duties of parents and establishing family property

13. Act n° 19,335 of 23 September 1994 established a system for sharing of financial gains, amending the Civil Code, the Civil Matrimony Act, the Code of Civil Procedure and the other indicated legislation. The Act also contains rules on the determination and calculation of such gains, on loans and on the scope of the system.

** The bold text is taken from the "General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention", adopted by the Committee on the Rights of the Child at its 343rd meeting on 11 October 1996 (see document CRC/C/58).

14. The Act created the concept of family property in order to safeguard the rights of the family, and especially the best interests of the child.

15. Family property consists of the immovable property of the two spouses or of one of them which is used as the family's principal residence and of the furnishings of the home which have been declared as such by the spouses.

16. The property in question may not be alienated or encumbered or committed to be alienated or encumbered without the agreement of both spouses. The same applies to the conclusion of contracts granting personal rights to the use or enjoyment of family property.

17. With a view to protecting any children the Act empowers the courts, during the marriage or on its dissolution, to establish as a precautionary measure rights of usufruct, use or habitation with respect to family property.

18. The courts are required to take particular account of the best interests of the child when establishing such rights and their time limits.

Adoption of legal measures to punish the abduction of children and their illegal transfer abroad

19. Act n°19,241 of 28 August 1993 amends article 141 of the Criminal Code by augmenting the penalties for the abduction of children. It also incorporates the concept of homosexual rape and replaces the text of article 142 of the Criminal Code on the abduction or kidnapping of persons.

Elimination of all forms of discrimination against children resulting from their filiation (Act n°19,581 of 26 October 1998)

20. This Act's basic purpose is to replace the existing filiation regime with new rules putting an end to the differential treatment of legitimate and illegitimate children and establishing equal treatment for all children regardless of the legal status of their parents at the moment of the children's conception or birth.

21. The Act's central idea is equality; hence the elimination of the differential treatment of children born in and out of wedlock and recognition of extramatrimonial filiation. The Act also establishes the principle of unrestricted investigation of paternity and maternity by establishing the possibility of recourse to any kind of proof.

22. In addition, the Act makes important changes with respect to parental authority, establishing a more consistent system for relations between children and parents and allowing the mother to exercise parental authority in conjunction with the father.

23. Parental authority is exercised with respect to all the non-emancipated minor children regardless of whether the filiation originates in a marriage, for it is exercised for the benefit of the children and not of the parents.

Convention on the Civil Aspects of International Child Abduction

24. On 17 June 1994 the Diario Oficial published the Convention on the Civil Aspects of the International Child Abduction. This instrument was adopted at the 14th session of The Hague Conference on International Private Law and is designed to ensure the immediate return of children unlawfully removed or held and respect for custody and visiting rights.

Measures to protect children against all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment and sexual exploitation

25. A series of laws designed to punish all forms of child abuse and family violence has been enacted over the past five years:

26. Act n°19,304 of 24 April 1994, which amends article 66 of Act n°16,618; Act n°19,324 of 26 August 1994, which amends the Juvenile Act; Act n°19,325 of 27 August 1994; and Act n°19,409 of 7 September 1995, which introduces a new article 367 bis providing punishment for any person who promotes or facilitates the entry or exit of persons for the purposes of prostitution, with heavier penalties when the victim is a minor.

Recognition of the need to ensure the full exercise of the rights of disabled persons

27. Act n°19,284 of January 1994 establishes rules on the full social integration of disabled persons: diagnosis and classification of disabilities; prevention and rehabilitation and equality of opportunities; the National Disability Register and its procedures and sanctions; creation of the National Disability Fund and State agencies to provide full or partial funding for plans, programmes and projects for disabled persons.

Recognition by the State of the existence of indigenous races and of their right to apply their own laws, follow their own cultural life and religion, and use their own language

28. Act n°19,253 of 5 October 1993 (the Indigenous Peoples Act) recognizes for the first time in Chile the existence of indigenous races inhabiting the national territory and obliges the State in particular and society in general to respect, promote and protect indigenous cultures and facilitate their development and advancement.

29. This recognition will make it possible to initiate a process of increasing respect for the rights of children to lead their own cultural life, profess and practice their own religion, and use their own language.

Measures to protect children against the illicit use of narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances

30. Act n°19,366 of 30 January 1995 and Decree n°565 of 26 January 1996 punish illicit trafficking in narcotic drugs and psychotropic substances and amend various relevant legal provisions.

31. This Act establishes among the procedural rules special provisions on persons aged under 18. It provides that children aged under 18 but over 16 must be brought before the corresponding juvenile judge; dispensing with the declaration of the child's having acted with or without due discernment, the judge may impose in his decision compulsory attendance at prevention programmes and/or performance of community service. For this purpose the judge may request the medical examination referred to in the Act and, in the expressly indicated cases, order the child to undergo the recommended treatment, establishing at the same time the necessary enforcement measures.

State policy on respect for and unrestricted recognition of the fundamental freedoms and on the safeguards for children deprived of their liberty

32. One of the Government's primary commitments is the comprehensive reform of juvenile criminal legislation. It has fulfilled this commitment by issuing a series of laws and decrees gradually giving effect to the international rules. The main legislation in this area includes:

Exempt Resolution n°1,820 of 6 August 1993

33. In August 1993 an Exempt Resolution of the Justice Department created the central and regional working groups on the removal of children from adult prisons.

Decree n°509 of 21 March 1994, creating teams for the removal of children from adult prisons

34. The purpose of this Decree was to form the various agencies working in the justice system with children and young people, especially with juvenile offenders, into teams to ensure that children are removed from adult prisons.

35. These permanent intersectoral teams seek to carry out satisfactorily the mandate contained in article 5 of Act n°18,575 (the Organic Act on the General Bases of the Administration of the State) by working in a coordinated manner for the attainment of the Act's objectives with respect to "preventing the confinement of minors in adult penitentiary facilities through the formulation of concrete recommendations to the authorities having competence for children in irregular situations who have been deprived of their liberty".

Decree n°778 of 18 May 1994, removing the option of imprisoning children below the age of criminal responsibility

36. In order to prevent the imprisonment of children below the age of criminal responsibility, this Decree revoked article 12 of Decree n°2,531 of 24 December 1928, which approved the regulations for the Protection of Minors Act and its amendments. This article 12 had provided that "when no children's home is available, a special section shall be established, completely separate from the adult sections, in the available prison or detention facility; the operation of this section shall be governed by the legislation on children's homes".

Decree n°1,103 of 28 July 1994 on subsidies for the care of children of the age of criminal responsibility

37. This Decree empowers the National Service for Minors (SENAME) to provide subsidies to the Gendarmería de Chile (prison warders) for all children aged under 18 who are deprived of their liberty as a result either of behavioural problems or of violations of the law. This allows them to be given more effective care and puts an end to an arbitrary discrimination against children under 18 who are declared to be liable to prosecution.

Act n°19,343 of October 1994 on the removal of children from adult prisons

38. This Act amended Act n°16,618, which establishes the definitive text of the Juvenile Act and other legislation.

39. It prohibits the confinement of children aged under 16 in adult prisons and restricts the detention of children subject to examination as to their due discernment to confinement in an

establishment determined by the President of the Republic in accordance with the requirements of the Act.

40. It also creates children's homes, which will operate under the auspices of two kinds of centre which are independent of each other:

(a) The centres for children requiring diagnosis, care and protection pending the issue of an order on their disposition;

(b) The observation and diagnosis centres, which take in children who have committed criminal acts or ordinary offences and hold them until the judge takes a decision on them or rules that they acted with discernment.

41. This Act authorizes the President of the Republic, by means of a supreme decree issued through the Ministry of Justice, to designate for places lacking an observation and diagnosis centre the facilities to which children may be admitted.

Decree n°1,698 of 27 December 1994, Decree n°80 of 20 January 1995, and Decree n°1,091 of 22 January 1996

42. These Decrees establish the transit and distribution centres and the observation and diagnosis centres, as well as the care establishments in which minors may undergo discernment examination (solely for places lacking an observation and diagnosis centre).

Ministry of Justice Decree n°730 of 19 July 1996

43. This Decree was published in the Diario Oficial on 3 December 1996; it approves the regulations for the implementation of Title IV of Act n°16,618 on children's homes and care institutions. The preamble states the determination of the present Government to bring domestic legislation properly into line with the precepts of the Convention and the treaties, recommendations and guidelines adopted by international bodies to which Chile belongs.

44. Article 2 provides that the children's homes and care institutions in question shall take all measures to ensure that children:

- Are treated humanely and with the respect due to their personal dignity and in conformity with all the relevant rights contained in the domestic and international legislation in force in Chile;
- Are encouraged to respect the human rights and fundamental freedoms of third persons and to respect the natural environment;
- Are provided with an adequate standard of living and suitable conditions for their physical, mental, spiritual, moral and social development;
- Do not suffer discrimination by reason of their race, colour, sex, language, religion, political or other opinions, national, ethnic or social origin, economic status, physical disability, birth, or any other circumstance of their own or of their parents or legal representatives;
- Regularly exercise their right to education;

- Develop their personalities, aptitudes and physical and mental abilities to the fullest possible extent;

- Are protected against any form of physical or mental abuse, negligence or negligent treatment, maltreatment or exploitation, including sexual abuse;

- Carry out progressively and continuously, on the basis of equality of opportunities, the obligations contained in current legislation, in these regulations, and in the internal regulations of the centre to which they have been admitted;

- Accept orders and decisions lawfully issued by the competent authorities in accordance with the established procedures;

- Are provided with health facilities, treatment for their illnesses, and physical and psychological rehabilitation;

- Lead responsible lives in a spirit of understanding, peace, tolerance, gender equality, and friendship among peoples and ethnic, national and religious groups;

- Enjoy rest and leisure, play and recreational activities suited to their age;

- Maintain their nationality, name, family and personal relationships, as well as direct contact with both their parents on a regular basis by means of correspondence and visits;

- May freely express their opinions and have them taken into account, depending on their age and maturity;

- Enjoy freedom of thought and conscience;

- Are free to profess their own religion or belief and to express themselves in their own language;

- Are not subjected to arbitrary or unlawful interference in their private lives or their correspondence or to unlawful attacks on their honour or reputation;

- Have access to information, especially information intended to promote their social, spiritual and moral well-being and their physical and mental health. The language needs of children belonging to minority groups must be taken into account;

- Are provided with special care if they have a mental or physical disability;

- May take part in cultural and artistic life;

- Are protected against trafficking in children, economic exploitation and the performance of any kind of work which may be hazardous or impede their education or harm their health or physical, mental, spiritual, moral or social development;

- Are protected against the illicit use of narcotic drugs or psychotropic substances;

- Are not subjected to torture or other cruel, inhuman or degrading treatment or punishment;

- Are not deprived of their liberty unlawfully or arbitrarily;
- Have prompt and timely access to legal assistance;
- Are kept in the centre for the shortest time possible;
- Enjoy the right to privacy;
- Are protected by a ban on the dissemination of any information about them, regardless of its form;
- May submit their petitions or complaints to the centre's director and to the supervisory committee and are informed of the replies;
- Are informed of the reason for their placement and retention in the centre and their procedural situation.

Act n° 19,257, which amends the Code of Criminal Procedure and the Criminal Code with respect to arrest and detention and sets out rules on the protection of civil rights

45. This Act establishes the circumstances in which the police are obliged to make arrests and the duty of public officials responsible for arrest or detention procedures to make an oral statement to the person concerned of the reason for his arrest or detention and of the rights established by this Act.

46. It establishes inter alia the right of a detainee or prisoner, even if held incommunicado, to have his family, lawyer or another person indicated by him informed in his presence, as early as possible and by the most expedite means, of the facts and the reason for his detention or imprisonment.

Draft legislation sponsored by the Ministry of Justice

47. The redrafting of Chile's legislation and its adaptation to the rules set out in the Convention is a priority goal of the work of the Ministry of Justice.

48. This challenge was taken up in the policy for the modernization of the Judiciary in the six-year period 1994-2000, which sets as one of its priority goals "the reform of juvenile law in order to harmonize it with the safeguards inherent in a democratic State and with Chile's international commitments".

49. This reform will address three basic areas:

(a) Principles: close attention will be given to the safeguards and legitimacy inherent in a democratic system, especially with respect to "equality of opportunities";

(b) Intersectoral approach: this means that judicial policy will be consistent with the policies of the other sectors; and

(c) Technical matters: the reform will have to keep in mind empirically valid diagnoses and the experience of other legislations.

50. The considerations taken into account in the formulation of this reform include the need to adapt Chile's legislation to the international legal instruments, in particular the International Covenant

on Civil and Political Rights, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Administration of Juvenile Justice, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Convention on the Rights of the Child.

51. This work of harmonization will bring an end to the contradictions between the benchmark rules and Chile's juvenile law, which is extremely dispersed and contains rules which continue to discriminate against children.

52. In the light of these considerations the Ministry of Justice is sponsoring the following draft legislation:

Draft reform of juvenile law

53. In the light of article 4 of the Convention and the objectives of the justice sector for the six-year period, in 1994 the Ministry set up a working committee to prepare a draft reform of juvenile law.

54. The comprehensive reform of juvenile law envisages two bills, the first to regulate the guardianship aspects and the second to deal with infringements of the criminal law by juveniles, including the establishment of courts, procedures and measures in each case.

55. Each bill will address inter alia:

(a) The fundamental principles of the legislation which must be respected by the family, society and the State;

(b) The fundamental rights to be accorded to children;

(c) The establishment of mechanisms to safeguard the rights of the child;

(d) The jurisdictional protection of these rights.

56. Where guardianship is concerned, the bill which is finally coming into being will have to address the protection measures for children whose rights are threatened or vulnerable, as well as the establishment of a national system for the care of children.

57. In conformity with the Convention these bills will recognize children as "subjects of special rights" invested with limited but increasing personal independence and the possessors of rights with respect to their parents and the State, which must ensure their comprehensive development so that they may play their part in social life and in legal matters fully and independently.

58. Unlike the current Juvenile Act (n°16,618), the guardianship bill will state clearly the principles of the legislation and spell out the rights accorded to children, abandoning the doctrine of "irregular situation" and replacing it with the principle of the comprehensive development of the child.

Guiding principles

59. It is regarded as fundamental that the bill should contain a set of principles to underpin the juvenile law. These principles include:

(a) Recognition of the child as "human person" having rights and obligations: this implies the right of children to state their opinions and to be heard on all matters affecting them. If this right is be fully exercised and effective, children must be given adequate information and advice and legal protection;

(b) The best interests of the child: in accordance with article 3 of the Convention the bill will oblige public and private agencies, social welfare institutions, the courts, administrative authorities and legislative organs to regard the best interest of the child as a primordial consideration in all the measures which they adopt. This principle will serve as the basis for preventing injury to children's rights in matters connected with their personal integrity, freedom and independence;

(c) Non-discrimination: full respect for and recognition of this principle entails respect for and recognition and guarantee of the principles of the child's equality of opportunity, equality before the law, and equality of constitutional rights;

(d) Protection of comprehensive development: this principle entails the duty of promoting and safeguarding children's rights and the gradual recognition of their independent development. It is a fundamental principle of the regulation of juvenile offences in criminal legislation, where the available measures will have to be expressly stated in a law and promote personal dignity, respect for human rights, and the effective integration of children in the national community;

(e) Effectiveness of rights: this principle involves the establishment of mechanisms and safeguards to ensure the effective exercise of rights by means of administrative arrangements for supervision and prompt access to the administration of justice. The application of this principle imposes on the State a duty to promote and observe the rights of the child, facilitate the development of the family, and formulate policies and programmes for children whose rights have been threatened, impaired or infringed;

(f) Special legal protection: pursuant to this principle children are entitled to special legal protection embodied in specific legislation on the protection and promotion of their rights, a specialized system of justice, and care services and institutions.

Criminal offences committed by juveniles

60. One of the bill's guiding principles is the recognition of a child's status of "person" and of children's special needs. In conformity with this principle the bill recognizes children, to an appropriate extent, as subjects of law responsible for any offences that they commit.

61. This will enhance the dignity and value and consolidate the observance of the human rights and fundamental liberties of others while still keeping in mind the age of the child concerned and the importance of facilitating his reintegration in society.

62. In addition, the bill excludes any covert form of the use of deprivation of liberty for acts not subject to punishment when committed by adults; it also contains a list of alternatives to deprivation of liberty, which shall be the measure of last resort.

63. In this latter connection the bill establishes a guarantee of the proportionality of the measure to the gravity of the act, which will have to involve a serious attack on a person before the judge, if he deems fit, may order deprivation of liberty. This measure may be applied solely in the cases specified in the legislation.

64. Following lengthy discussion and working sessions it was agreed that the reformulated legislation should exclude the ordinary criminal responsibility of children aged under 18 and establish a special system of responsibility for children aged over 14 but under 18.

Reform of the guardianship legislation

65. One requirement is for public policy to differentiate between children in a state of need and children in conflict with the law.

66. Three types of procedure are being studied:

(a) A procedure of amparo designed to make good any violation of a child's rights. This is an action of broad scope which may be brought before a family judge by a child, by his parents or other persons legally responsible for him, or by any person having knowledge of the violation;

(b) A procedure establishing liability for failure to fulfil obligations by the family, society or the State;

(c) A procedure for the application of protection measures against a threat to or violation of a child's rights resulting from an act or omission by society, the State, parents or legally responsible persons, or from the child's own conduct.

67. The authorities will be responsible for safeguarding children's rights. Jurisdictional protection will be provided by the family judges, who will also be responsible for the general protection of the rights contained in the juvenile legislation and international legal instruments.

68. The protection measures available to the authorities will be expressly stated in the bill, together with the grounds and procedures for their application.

69. The bill will address the organizational and institutional aspects and indicate the authorities or agencies empowered to intervene in the cognizance, ordering and enforcement of the measures.

70. The bill's guardianship provisions will have to cover the protection measures applicable to children whose rights are threatened or infringed and the establishment of a national system of services to care for such children.

Family courts

71. The creation of family courts is a need accepted and endorsed by all sectors in Chile.

72. The gradual establishment of such courts is an important factor in bringing Chile's legislation into line with the international rules, with the Convention in particular.

73. What is being proposed is the gradual transformation of the existing juvenile courts, currently totalling 49 with three still to be established.

74. In a second stage the necessary measures will be taken to enable the court of jurisdiction to apply the procedures envisaged in the family courts legislation (mediation, hearings, etc.).

75. The creation of these courts necessarily depends on the adoption of two bills: (i) the constitutional organization bill, concerning the organization and powers of the family courts, where

the proceedings will be oral and concise and preceded by a mediation stage; and (ii) the bill on the status of children (root and branch reform of Chile's juvenile law).

Bill amending Chile's adoption law

76. This bill is designed to counteract criminal practices - trafficking in children for instance - and to establish more efficient adoption arrangements by introducing an independent, flexible and expeditious procedure for declaration of a state of abandonment and a subsequent non-litigated procedure for granting adoption. The central aim is for the child to join his new family as quickly as possible.

77. This legal initiative establishes a preference for national adoption and allows international adoption only by citizens of countries with which Chile has signed a bilateral or multilateral agreement regulating such adoption. This will facilitate subsequent control by means of proper monitoring of the adopted children. Internationally adopted children will leave Chile with the civil status of legitimate child of the adoptive parents.

Sexual offences bill

78. This bill amends the Criminal Code, the Code of Criminal Procedure, and other legislation in matters connected with the crime of rape, thus making good the lack of effective law in this area.

79. In order to ensure a comprehensive treatment of this topic the bill's drafting committee had the active collaboration of the relevant institutions, including the Commission for Study of the Criminal Code set up by the National Service for Women, which had requested from the Research Department of the Catholic University of Chile a study on "Sexual violence in Chile: social, cultural and political dimensions". The conclusions were to be used as the basis for the drafting of the bill's text.

80. The bill's principal rules address the following topics:

(a) Innovations in the system of sanctions, with the incorporation of prevention and rehabilitation;

(b) Inclusion of rules to safeguard the right to privacy and the secrecy of the pre-trial proceedings;

(c) Expansion of the arrangements for reporting of offences to the persons who take cognizance of them by reason of their professional work;

(d) Recognition of the validity of the evidence of persons close to the victim or of his or her family members;

(e) Avoidance of inflicting serious disturbances or greater mental suffering on the victim when the evidence is produced;

(f) Introduction of a number of changes in the Courts Organization Code and the Civil Code in order to invest the criminal courts with competence to rule on divorce actions brought against a spouse convicted of the crime of rape, incest or indecent abuse of the person of the other spouse or any of the children.

Visiting arrangements

81. Attention is being given to amendment of the juvenile legislation concerning visiting rights, for such rights are not established in positive provisions but derive from the removal of custody rights from the father or mother.

82. The problems encountered in connection with visiting arrangements, together with the need to safeguard the right of children to maintain links with their family and the right of a father or mother deprived of custody to maintain affective links with his or her child prompted the Ministry of Justice to propose changes in the section of the Civil Code on "Rights and obligations concerning relations between parents and their legitimate children".

System of subsidies

83. For the short term the comprehensive reform of juvenile law is concerned with improving the management work of the institutions collaborating with the National Service for Minors (SENAME). A bill to replace Decree-Law n°1,385 has been drafted for this purpose and is currently being processed in the National Congress. This bill establishes a system of subsidies provided by the State through SENAME to institutions collaborating in the care of children subject to the attentions of the justice sector.

84. This bill seeks to establish a system which will provide personalized attention, encourage and facilitate children's contacts with their families, and create incentives for non-institutional care of children.

85. However, it must be pointed out that drafting work is also proceeding on a legal initiative for the comprehensive amendment of the bill currently before the Congress.

- **Possibility of invoking the provisions of the Convention directly before the courts and of their direct implementation by the national authorities**

86. Since the Convention is a law of the Republic of Chile and enjoys constitutional status, as pointed out above, it may be invoked before the courts, which must give effect to its provisions.

87. The national authorities have been implementing the Convention directly ever since its ratification.

- **Conflicts with domestic legislation**[2]

14. In the light of article 41 of the Convention, please indicate any provisions of the national legislation which are more conducive to the realization of the rights of the child. [3]

15. Please provide information on judicial decisions applying the principles and provisions of the Convention.

88. No such information is available.

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[2] See pages 4-11 of the explanatory document "Respuesta del Gobierno de Chile ante el Comité de los Derechos del Niño de las Naciones Unidas", 1994.

[3] See pages 4-11 of the same explanatory document.

16. Please provide information on remedies available in cases of violation of the rights recognized by the Convention.

89. Remedies against violation of the rights recognized in the Convention have been established in all the legislation incorporating principles of the Convention. This is necessary because there is no single legal instrument or code dealing with juvenile matters.

17. Please indicate any steps taken or envisaged to adopt a comprehensive national strategy for children in the framework of the Convention, such as a national plan of action on children's rights and relevant goals established.

90. As stated in the initial report, the National Plan for Children (PNI) was produced in 1992; this commitment was assumed by the Government of the time in the context of the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children adopted at the World Summit for Children in New York in September 1990.

91. The PNI establishes targets and policies for the decade which will help to improve the quality of life and the living conditions of Chile's children.

92. These are the Plan's four basic goals:

(a) To attain the targets set for children in the various areas of activity during the decade both at the national and at the regional and local levels;

(b) To move forward the process of making the public social programmes for children up to age 18 more consistent and comprehensive, in an effort to coordinate and complement the functions and activities which make the attainment of the national and regional targets for children possible;

(c) To intensify the quest to secure concerted actions by the public and private sectors as the strategy and purpose of a social policy designed to enhance the sense of responsibility and the capacities of society itself, with a view to progress towards the attainment of the desired quality-of-life targets for children;

(d) To contribute to the process of decentralization by means of the first-ever comprehensive initiative for a target group in the Government's social policy.

93. The PNI lays down targets for: child development and initial education; basic education; maternal and child health; nutrition; problems connected with the use of alcohol, drugs and tobacco; maltreatment, abandonment and sexual abuse of children; disabled children; children in conflict with the justice system; water and basic sanitation; and Chile's environmental problems and their effect on children and health.

94. The PNI has provided a means of boosting the intersectoral efforts and making optimum use of the available resources in the period 1992-1997. It has become a primary source of guidance for the policies for children as well as transforming itself into a strategic framework accepted by the institutions which are formulating and implementing regional and local programmes for children.

95. The Ministry of Planning and Coordination (MIDEPLAN) is the State agency responsible for coordinating and supporting the PNI activities in four areas: decentralization, monitoring, publicity, and pursuit of the targets.

96. Monitoring the attainment of the PNI targets constitutes a permanent activity and it has resulted in two publications: "Chile's commitment to children", which gives a detailed implementation report for the period 1990-1994; and "Progress towards attainment of the PNI targets 1990-1995".

97. A third publication is being prepared; it will include an account of the progress towards the targets up to 1997 and a full compilation of statistics on children.

18. Please provide information on existing or planned mechanisms at the national, regional and local levels, and when relevant at the federal and provincial levels, for ensuring implementation of the Convention, for coordinating policies relevant to children and for monitoring progress achieved, including information on:

- **The governmental departments competent in the areas covered by the Convention, the steps taken to ensure the effective coordination of their activities, as well as to monitor the progress made by them;**

98. No specific agency for coordinating all the policies on children came into operation during the period covered by the report. This lack is underlined by the fact that most ministries and other public agencies provide services or care for children and work on the same target population and often on the same problems but without coordinating their activities properly.

99. However, an interministerial working group on children was established in 1997, on the instructions of the Social Ministers' Committee, in order to make some progress towards securing such coordination among the various governmental agencies carrying out measures and programmes in this area.

100. This working group is made up of representatives of the Ministries of Health, Education, Labour and Social Security, and Justice, the Secretariat-General of the Presidency, the National Service for Women, the Directorate-General for the Budget, and MIDEPLAN, which acts as convenor. Its general aim is to formulate a comprehensive policy proposal for children.

- **The steps taken to ensure effective coordination of activities between central, regional and local authorities, and where relevant between federal and provincial authorities**

At the regional level

101. Chile has been implementing a policy of gradual decentralization since 1989. The PNI is part of this process and has operated within this context from the outset.

102. Thus, 1993 saw the initiation of the formulation of regional plans for children (PRIAs), which are regional versions of the PNI.

103. In general terms these PRIAS contain "a statement of the situation of children in each region in the areas covered by the PNI, final targets for the decade in each of these areas, a definition of the areas and an indication of the priority targets, and a description of the strategies for their attainment".[4]

104. To date, 11 of the country's 13 regions have prepared their PRIAs, and 10 of them have been published. The plans take into account the region's specific characteristics, organize the information on children available in the region, and give attention to intersectoral work.

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[4] "Progress towards attainment of the PNI targets 1990-1995" and Santiago Agreement, MIDEPLAN, 1996.

105. One of the pending challenges is the decentralization of the PRIAs to the local level. Big efforts are being made in this area, and attention is drawn in this connection to the work of the Network of Municipalities for Children, the National Council on the Elimination of Poverty, the Children's Networks project, SENAME, and the Foundation for the Rights of the Child, as well as to the activities carried on by various municipalities.

At the local level

106. Local and grass-roots work for the benefit of children has been going on for many years in Chile but usually as part of a broader range of care activities for the residents of each commune. There are, for example, sports clubs, cultural centres, Boy Scout troops, etc. However, the present decade, following Chile's signature of the Convention, has seen the emergence of a more concerted concern to respond and to cater to children's various development needs in the context of the commune.

107. This was the setting for the creation in 1994 of the Network of Mayors for Children, now known as the Network of Municipalities for Children, an organization which counts a large number of municipalities among its members and operates through a technical secretariat and whose main purpose is to promote, in all the country's communes, initiatives for Chile's children which will help to improve their quality of life and the living conditions in the places where they live.

108. In 1995 this Network produced a working paper entitled "General guidelines and action policies for children". The aim was to encourage and support municipalities beginning to undertake specific measures or programmes for children and to consolidate the work of municipalities which already have such measures and programmes.

109. One of the Network's most effective activities is concerned with children's participation in the life of the commune. It consists basically of devising methods of incorporating the wishes and proposals of children themselves in the efforts to improve their living conditions. The central focus of the work with children is on the rights of the child and their observance by adults and the community, as well as on concrete means of making progress at the local level in promoting and securing respect for these rights.

110. In August 1996, on the initiative of the Network of Mayors for Children, the first national encounter on "Children for their rights" was held in Santiago under the slogan "We children are speaking out in our communes". The conclusions of this encounter provided an important input from the children's standpoint for the analysis of local policies for children and for their improvement.

111. In view of the importance of local action for children, in 1995 MIDEPLAN, in agreement with the Subsecretariat for Regional and Administrative Development, carried out an analytical study which provided various kinds of information about the care furnished by the municipalities at the commune level. This study concluded that there existed a variety of initiatives designed to tackle the topic of children and cater better to children's needs. The commonest initiatives were "children's offices" and "communal councils and committees for the rights of the child".

112. The study also concluded that the municipalities recognized as one of the biggest deficits the lack of services or programmes for children vulnerable in some way or subject to some kind of social risk who ended up placed in one of the SENAME facilities; the result in many cases was the "judicialization of poverty" since social problems were thus supposed to be solved by the juvenile courts.

113. It was also found that only a small proportion of municipalities (17 %) had a communal plan for children setting out activities and targets consistent with the principles of the PNI. An even smaller number of these municipalities requested the participation of outside agencies in the formulation of the plan, with the result that the plans are more "municipal" than "communal", as they should ideally be.

114. Attention is drawn in this connection to the concrete contributions of a number of NGOs to the municipalities' work for children. Under agreements with NGOs the municipalities receive technical and professional support while undertaking in return to continue the activities once the NGOs have withdrawn, leaving in place a technical capacity for dealing with children's problems (production of analyses, use of statistics, formulation of projects for children and the family, etc.).

115. A working group was set up in 1996 as a tool for preventing duplication, sharing the work and involving more people in it. The group is coordinated by MIDEPLAN and is made up of representatives of civil society, the public sector and the Network of Mayors for Children; its basic aim is to improve the coordination between the public and private bodies supporting the municipalities and communes in their work for children. One of the participating bodies, the Foundation for the Rights of the Child, designed a methodological model for producing communal studies on children; this model is regarded as extremely useful in establishing the extent to which children's needs are being satisfied.

116. In 1997 the Government established a programme for strengthening local initiatives with children because it was aware that by themselves alone the sectoral measures, or the measures carried out by civil society in support of communal activities, were insufficient to ensure that the provisions of the Convention are translated into concrete action to guarantee children's rights, benefits and opportunities for comprehensive development.

117. Since their are no specific State agencies for children, this programme is being implemented by means of the programme for regional investment and local allocation of funds through the Solidarity and Social Investment Fund (FOSIS), a public body connected with MIDEPLAN. This programme is expected to be only temporary, for it is regarded as only one link in the chain leading to the establishment of more integrated and permanent institutions. The idea is that this programme will attend to situations not covered by the sectoral measures which require flexible and participatory modes of intervention.

- **Any governmental institutions created to promote the rights of the child and monitor implementation, and how they relate to non-governmental organizations;**

118. No governmental institution has been created specifically to promote the rights of the child and supervise their exercise, but the various ministries and public services are concerned, from their own sectoral standpoints, with the promotion and monitoring of specific rights.

- **Any independent body established to promote and protect the rights of the child, such as an Ombudsperson or a Commissioner;**

119. Chile has no agency of this kind.

- **The measures taken to ensure the systematic gathering of data on children and their fundamental rights and to assess existing trends at the national, regional and local levels, and where appropriate at the federal and provincial levels, as well as the steps taken to develop mechanisms for the identification and gathering of appropriate**

indicators, statistics, relevant research and other relevant information as a basis for policy-making in the field of children's rights;

120. Such systematic data on children is gathered basically by the sectors providing care or other services for children. For example, the Ministry of Education publishes an annual compendium of statistical information on the development of the education situation in Chile. This compendium contains full information on enrolment, promotion and graduation, and repeated years and drop-outs in the preschool, basic and secondary education systems, as well as on the existing curricula, results of performance tests, etc.

121. In the same way the Ministry of Health produces qualitative and quantitative data on such matters as antenatal checks, maternal and child checks, fertility, morbidity, mortality, monitoring of healthy children, vaccination programmes, early detection of disabling illnesses, etc.

122. More comprehensive information is provided by the statistics of the National Population Census, conducted in Chile every 10 years, and the data obtained from the National Social and Economic Survey (CASEN survey).

123. The CASEN survey was initiated in 1987 and has been conducted every two years since 1990. Its purposes include making periodic assessments of the situation and the socio-economic evolution of households and the population, contributing to the formulation, monitoring and evaluation of the global and sectoral social policies and programmes which constitute social expenditure, and supporting the decentralization of the public administration in the areas of situation analysis and decision-making.

124. The CASEN survey is a valuable tool for MIDEPLAN and an important source of data on the country's socio-economic structure. The surveys are conducted on the basis of a representative sample of all the country's households at the national and regional levels.

125. In particular, this survey provides a picture of the situation of children aged under 18 which is presented in a document for the year in question entitled "Situation of children in Chile". This document contains information on incomes, incidence of poverty, coverage of preschool, basic and secondary education, position of children with regard to health insurance schemes, etc.

126. In view of the importance of gathering as much information as possible in order finally to design social policies which cater more comprehensively to the needs of people in general and children in particular, since 1996 the CASEN survey has been using a new model for emerging issues such as violence (maltreatment, sexual abuse, robbery), child labour, etc., which records the types of paid activity carried out by children aged six to 14. It also includes information on the presence of disabled persons in the family group and on membership of one of the eight original ethnic groups or communities identified in Chile.

- **The steps taken to ensure a periodic evaluation of progress in the implementation of the Convention at the national, regional and local levels, and where appropriate at the federal and provincial levels, including through the preparation of any periodic report by the Government to the Parliament.**

127. Pursuant to the commitments entered into by Chile at the World Summit for Children and under the Convention itself, in 1992 the Government produced the National Plan for Children (PNI), which is an intersectoral instrument for orienting and coordinating the efforts of governmental and private bodies to improve the conditions of children's lives.

128. The PNI has proved itself as a mechanism for boosting the intersectoral efforts and optimizing the available resources. Since 1993 it has been transformed into a vital means of orienting the policies for children and has moreover established itself as a strategic framework recognized by the institutions which formulate and implement regional and local programmes for children.

129. The monitoring and evaluation of the PNI targets has so far resulted essentially in the publication of the following books and documents: "Chile's commitment to children", which describes in detail the progress towards attainment of the targets in the period 1990-1994; "Progress towards attainment of the PNI targets", which offers an evaluation up to 1995; and "Evaluation of the situation of education in Chile", which covers the period 1990-1996.

19. Please indicate any initiatives taken in cooperation with the civil society (for example, professional groups, non-governmental organizations) and any mechanisms developed to evaluate progress achieved.

130. In recognition of the fact that children constitute one of the most important subjects of social policy and that improvement of their quality of life is a fundamental factor in the fight against poverty and for greater equity, attention has been given over the past six years to the vital need for a new approach which will both incorporate civil society, thus transforming children's issues into national issues, and lead to decentralization and emphasis on the comprehensiveness of the programmes and policies.

131. This new approach also addressed the need for flexible programmes capable of responding to the most recent problems for social policy, such as adolescent pregnancy, child abuse, etc.

132. The National Anti-Poverty Programme was created in 1994 in order to strengthen the measures taken. Since poverty has its most severe effects on children, this Programme incorporates children as a target group for the activities. According to the CASEN survey, in 1994 11.9 % of the under-15 population were in the extreme-poverty category and 27.1 % in the poverty category; this means that 39 % of this group were living in poverty. The survey also shows that in 1996 8.9 % of all under-15s were extremely poor and 24.5 % were poor, making a total of 33.4 % living in poverty. In 1994 the figures for the whole country were 7.6 % extremely poor and 20 % poor. In 1996 they had fallen to 5.7 and 17.5 % respectively. (Source: MIDEPLAN, CASEN surveys for 1994 and 1996.)

133. The joint working initiatives taken by certain public services in conjunction with organizations of civil society included the establishment in 1996 of a working group to support the activities for children carried out by these services and NGOs at the local level. A mechanism was created for the gathering of information to facilitate an analysis of the situation of children. The National Council on the Elimination of Poverty, SENAME, MIDEPLAN, the Network of Municipalities for Children, Vicaría Pastoral Social, and the Foundation for the Rights of the Child all participate in this working group.

20. Using indicators or target figures where necessary, please indicate the measures undertaken to ensure the implementation at the national, regional and local levels, and where relevant at the federal and provincial levels, of the economic, social and cultural rights of children to the maximum extent of available resources[5].

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[5] The statistics given in this section are based on various studies produced by the Department of Social Studies of MIDEPLAN.

134. Chile does not keep records which would give an accurate indication of State investment in social and economic policies for children. However, this investment may be inferred from the general evolution of social spending, which increased from 59 % of the total budget in 1989 to 71 % in 1996 while at the same time adding a number of new social and economic programmes and instruments which tend to benefit the social sectors and groups with the biggest deficits and the fewest opportunities.

135. Chile has been exhibiting greater solidity in its economic planning which is manifested not only in macroeconomic successes in terms of growth, savings and investment rates but also in the minor and major processes which accompany such successes. In 1994 Chile diversified its markets significantly by joining APEC; it has bilateral free-trade agreements with big countries in the region; it is a member of MERCOSUR and also hopes to join NAFTA. This means that today's Chile has more development opportunities than at the end of the 1980s.

136. In 1990-1996 the annual economic growth rate was 7.8 %, with a total increase of 68.9 % between 1989 and 1996.

137. Since 1990 social policy has been focused on improving the coverage, quality and equity of the basic social services while at the same time giving priority attention to social-development investment programmes in addition to assistance programmes as such. For example, between 1989 and 1996 the social expenditure of the central Government increased by 64.6 % while Treasury expenditure rose by 93.8 %.

138. In 1996 public spending totalled $US 9,800 million and tax expenditures $US 8,100 million.

139. In 1996 the shares of public social spending in total public spending and of social expenditures in total tax expenditures were 66 and 64.1 % respectively, significantly higher than the 1989 figures of 58.2 and 55.3 %.

140. This means that Chile has more resources for conducting an active social policy: more resources as a result of its global economic growth; more resources from the increased share of social spending in total public spending; more resources from the channelling of traditionally non-social expenditure to social ends; more resources from increased efficiency in the management of resources; and, what is significant in terms of quality, more resources as a result of the increasing grass-roots participation in social action. All this has produced a substantial reduction in poverty and extreme poverty and an improvement in the quality of life of all Chileans. The poverty level stood at 32.6 % in 1992 but had fallen to 23.2 % by 1996. And the extreme-poverty level fell from 8.8 % in 1992 to 5.7 % in 1996.

141. One of the pillars of social policy has been the rationalization of public measures and their targeting not only on sectors but also on people. In this context children have been identified as one of the priority target groups of the Government's social policy, and various measures have been introduced to improve the services for children, while the creation of new economic and social programmes benefits children directly or indirectly.

142. For example, the priority given to education was reflected in an increase of 91.4 % in tax expenditures on education between 1989 and 1996, and this led to an 84 % rise in public spending in that period.

143. In 1996 public expenditure on education amounted to $US 2,200 million (3.1 % of GDP).

144. In 1997 the public sector's education budget totalled about $US 2,300 million.

145. Furthermore, in response to a serious deterioration in the health sector between 1989 and 1996, tax expenditures on health increased by 83.8 % in that period.

146. In 1996 public spending on health totalled $US 1,739 million (2.4 % of GDP) and tax expenditures to $US 813 million (1.1 % of GDP).

147. The share of tax expenditures in public spending on health rose from 33.3 % in 1989 to 46.7 % in 1996.

148. In 1997 the public sector's health budget amounted to about $US 2,000 million.

149. In addition, the decision to make a substantial increase in the level of investment in housing meant that tax expenditures on housing rose by 176.5 % between 1989 and 1996 and public spending on housing by 75.4 % in the same period.

150. In 1996 public expenditure on housing totalled $US 840 million (1.2 % of GDP) and tax expenditures to $US 690 million (1 % of GDP).

151. The contribution of tax expenditures to public spending on housing rose from 52.4 % in 1989 to 82.6 % in 1996.

152. In 1997 the public sector's housing budget amounted to about $US 870 million.

153. Where assistance programmes are concerned, the State allocates roughly seven % of its social expenditure to cash subsidies: family benefits and subsidies for housing, water supply and pensions. In order to gain some idea of the scale of this effort it should be noted that for 1996 this meant the allocation of some $US 700 million for such subsidies. ("Balance of six years of social policies 1990-1996", MIDEPLAN, 1996.)

154. The average monthly value of pension benefits rose by 43 % between 1989 and 1996.

155. An average of 326,000 monthly pensions was paid in 1996.

156. The average monthly value of family benefits increased by 25.9 % between 1989 and 1996.

157. A monthly average of 3,244,000 family benefit payments was made in 1996.

158. The average monthly value of family benefits increased by 29.6 % between 1989 and 1996.

159. A monthly average of 766,000 family benefit payments was made in 1996.

160. An analysis of the distribution of expenditure among households under the main health, education and subsidy programmes demonstrates the high degree of progressiveness and the powerful impact of these programmes. In 1996 74.8 % of the total net subsidy in the health sector was paid to low-income households. This was due to the heavy concentration on the poorest households of the subsidies for health care and under the National Food Supplement Programme.

161. In 1996 60.1 % of total spending on education went to the poorest 40 % of households. In basic education 64.5 % of the expenditure went to the poorest 40 % of households - a result of the intense targeting of the pupil assistance programmes.

162. Similarly, 64.8 % of expenditure in the form of cash benefits went to the poorest 40 % of households. These households also received 85.7 % of Single Family Benefit expenditure and 64.7 % of spending under the Pension Benefits Programme.

- **The steps undertaken to ensure coordination between economic and social policies;**
- **The proportion of the budget devoted to social expenditures for children, including health, welfare and education, at the central, regional and local levels, and where appropriate at the federal and provincial levels;**
- **The budget trends over the period covered by the report;**
- **Arrangements for budgetary analysis enabling the amount and proportion spent on children to be clearly identified;**
- **The steps taken to ensure that all competent national, regional and local authorities are guided by the best interests of the child in their budgetary decisions and evaluate the priority given to children in their policy-making;**
- **The measures taken to ensure that disparities between different regions and groups of children are bridged in relation to the provision of social services;**
- **The measures taken to ensure that children, particularly those belonging to the most disadvantaged groups, are protected against the adverse effects of economic policies, including the reduction of budgetary allocations in the social sector.**

163. The Government is working on the creation of an agency for coordinating and monitoring the policies for children, which are currently being carried out by a large number of public institutions.

164. Four priority action areas have been identified:

(a) Child abuse: an intersectoral proposal and short- and medium-term measures are currently under discussion;

(b) Care of children in irregular situations: progress has been made on the reform of the system of subsidies and the modernization and restructuring of SENAME;

(c) Child labour: a start has been made on the implementation of the International Programme for the Elimination of Child Labour and Protection of Child Workers (IPEC), and a National Advisory Committee on IPEC has been established; it brings together representatives from various ministries and public services, the Legislature, small, medium and large business organizations, trade-union organizations, churches, NGOs, the police, etc. This Committee is being coordinated by the Labour Ministry and ILO;

(d) Child care: measures for the expansion of the coverage of the systems of child-care support for families in which both parents work are under study. The Ministry of Justice is sponsoring a set of legal initiatives such as the reform of the legislation on guardianship, juvenile responsibility, filiation, family courts, adoption, and visiting rights.

165. The aim of the work being done under the social investment programmes of the various ministries and the National Anti-Poverty Programme is to introduce innovative and modern management methods and practices; to this end an effort is being made to create intersectoral bodies for setting targets, coordinating the activities, and evaluating the results and progress.

21. Please indicate the extent to which international cooperation relevant to the State party is designed to foster the implementation of the Convention, including economic, social and cultural rights of children.

166. Between 1993 and 1997 approval was given to 48 international cooperation projects having a direct impact on the exercise of one or more of the rights of the child set out in the Convention.[6]

167. Most of these projects were funded by UNICEF, which insists on an explicit and specific linkage to the objectives and provisions of the Convention as a condition for project approval.

168. Primary education has been the sector receiving most attention from international cooperation, and in this sector one hundred % of that attention is focused on the age group corresponding to what UNICEF defines as "children".

169. The contributions made specifically to the education sector were an outstanding feature of international cooperation between 1990 and 1997. Attention is drawn in this connection to four projects which make a contribution to the 900 Schools programme, seeking a significant improvement in basic education in the 900 schools covered by the programme. Denmark contributed $ 4,716,858 in addition to the $ 2,184,735 for school extensions. Sweden made similar contributions of $ 5,545,072 and $1,805,044.

170. This shows how international cooperation has joined in the efforts being made by Chile to fulfil the commitment undertaken with respect to children's right to education.

171. Significant contributions have also been made in the justice sector, especially to SENAME. One example is a contribution of $US 641,184 from Norway to help young people at risk.

172. With regard to the right of children to grow up in an environment free from violence, a valuable contribution of $272,177 was made by the Government of Norway to the National Service for Women to support the programme on prevention of family violence.

173. Where contributions to infrastructure and equipment are concerned, mention may be made of Germany's contribution to the health sector for the repair of hospitals, $49 million of which has already been delivered. Although it is not possible to break this amount down in terms of assistance to age groups, this contribution must be regarded as important for children because the health benefits provided by the public sector include services for pregnant women, attendance at delivery, neonatal care, monitoring of healthy children, care for breastfeeding mothers, vaccinations, treatment of illnesses and accidents, etc.

174. Japan has also made a contribution of $1,645,000 to a health sector equipment project; there will be a further amount, as yet unspecified, for assistance and training at the Pedro Aguirre Cerda Hospital for the treatment of children with deformities.

175. Lastly, it must be emphasized that 38 % of the international cooperation projects approved in the period 1990-1996 were social projects; although they are not described in terms of age ranges it may be inferred that they are of great benefit to children.

22. In addition, States are requested to describe the measures that have been taken or are foreseen, pursuant to article 42 of the Convention, to make the principles and provisions

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[6] See the annex: donor countries, projects, executing agency and budget.

of the Convention widely known, by appropriate and active means, to adults and children alike. In this regard, reports should also indicate:

- **The extent to which the Convention has been translated into the national, local, minority or indigenous languages. In this connection, an indication should be given of the number of languages into which the Convention has been translated and the number of copies translated into the minority languages during the reporting period;**

176. The text of the Convention has not been translated into or published in the languages of Chile's indigenous ethnic minorities.

- **Whether the Convention has been translated and has been made available in the languages spoken by the larger refugee and immigrant groups in the country concerned;**

177. The text of the Convention has not been translated into the mother tongue of any of Chile's most numerous immigrant groups.

- **The measures adopted to publicize the Convention and create widespread awareness of its principles and provisions. In this connection, an indication should be given of the number of meetings (such as parliamentary or governmental conferences, workshops, seminars) held, the number of programmes broadcast on radio or television and the number of publications issued explaining the Convention on the Rights of the Child;**

178. The PNI formulated and published in 1992 establishes targets and action policies for the decade which will facilitate a substantial improvement in the quality of life and living conditions of Chile's children.[7]

179. Since 1993 the main focus has been on the decentralization of the PNI by means of the formulation and subsequent implementation of the regional plans for children (PRIAs). The initiation of the constitution of the regional governments in that same year offered a favourable opportunity for implementing the decentralization and for establishing systems of dissemination, follow-up and monitoring at the national and regional levels.

180. Much of the work of publicizing the principles and provisions of the Convention is done during the formulation of the regional plans, a process involving the broad participation of representatives of the public sector and civil society.

181. Eleven regional plans have been produced so far, and 10 of them have already been published; the country's other two regions are in the final stages of the formulation of their plans.

182. To date no agency has been created to coordinate, integrate, orientate and supervise the social policies for children.

183. Nevertheless, several public bodies have been carrying out measures in conjunction with NGOs to promote and publicize the rights of the child. These measures include the ones taken by a significant number of municipalities: with the support of the Network of Municipalities for Children they have gradually been incorporating the measures set out in the Convention into their activities.

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[7] See the initial report, paragraph 39 (b) and (c).

- **The specific steps taken to make the Convention widely known to children and the extent to which it has been reflected in the school curricula and considered in parents' education campaigns. An indication should be given of the number of copies of the Convention distributed in the educational system and to the public at large during the reporting period;**

184. No information.

- **The measures adopted to provide education on the Convention to public officials, as well as to train professional groups working with and for children, such as teachers, law enforcement officials, health workers and social workers;**

185. All the social ministries and their related services have assumed responsibility for informing their personnel about children's rights and in specific cases they provide training in this subject. And with the support of a number of State services and of NGOs such as the Foundation for the Rights of the Child many municipalities have been scheduling information events or days on children's rights.

- **The extent to which the principles and provisions of the Convention have been incorporated in professional training curricula and codes of conduct or regulations;**

186. There is no general provision for the incorporation of the principles of the Convention in professional training plans, but some of the social professions are gradually beginning to introduce topics connected with children's rights in their courses.

- **The steps taken to promote understanding of the principles and provisions of the Convention by the mass media and by information and publishing agencies;**

187. There are no provisions on this subject.

- **The involvement of non-governmental organizations in awareness and advocacy campaigns on the Convention, as well as any support provided to them. In this connection, an indication should be given of the number of non-governmental organizations who participated in such events;**

188. No information.

- **The participation of children in any of these activities.**

189. No information.

23. **States are also requested to describe the measures undertaken or foreseen to make their reports widely available to the public at large in their own countries. In this regard, please indicate:**

- **The process of preparation of the present report, in particular the extent to which governmental departments, at the central, regional, provincial and local levels participated, and non-governmental organizations were involved;**

190. A technical working group coordinated by MIDEPLAN was created for the preparation of this report; its membership consisted of representatives of the Ministries of Education, Health, Justice, Labour and Social Security, and Housing and Urban Development, the National Service for Women, SENAME, and the INTEGRA Foundation. Representatives of the Network of

Municipalities for Children and of three NGO federations - Asong, Feniprom and Acción - were also invited to participate.

191. The NGOs working in Chile prepare their own reports.

192. All public institutions were requested to respond on matters relevant to their work. All the country's regions were also requested through the regional planning secretariats to submit a progress report on the application of the Convention.

193. A high level of participation was secured in the formulation of the report: centrally, through the ministries and services; regionally, through the regional planning secretariats; and locally, through the meetings with the technical secretariat of the Network of Municipalities for Children.

- **The steps taken to publicize the report, to translate and disseminate it in the national, local, minority or indigenous languages. An indication should be given of the number of meetings (such as parliamentary and governmental conferences, workshops, seminars) held, the number of programmes broadcast on radio or television, the number of publications issued explaining the report and the number of non-governmental organizations which participated in such events;**

- **The measures adopted or foreseen to ensure wide dissemination and consideration of the summary records and the concluding observations adopted by the Committee in relation to the State party's report, including any parliamentary hearing or media coverage. Please indicate the events undertaken to publicize the concluding observations and summary records of the previous report, including the number of meetings held, the number of programmes broadcast on radio or television, the number of publications issued explaining the concluding observations and summary records, and the number of non-governmental organizations which participated in such events.**

II. DEFINITION OF THE CHILD
(Article 1)[8]

24. Under this section, States parties are requested to provide relevant information with respect to article 1 of the Convention, including on:

- **Any differences between national legislation and the Convention on the definition of the child;**

194. As pointed out in the initial report, Chile's legislation does not contain a definition of what is understood by "child". But it does establish clearly that the age of majority and with it the full capacity to perform civil acts is reached at 18 years.

195. According to article 1 of the Convention, a child means every human being below the age of 18 years; this is not consistent with article 26 of Chile's Civil Code, which states:

> "Anyone who has not reached the age of seven shall be considered an infant or child; a male below the age of 14 and a female below the age of 12 shall be considered below the age of

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[8] See the relevant sections of the initial report on the measures taken by Chile to give effect to the rights recognized in the Convention.

> puberty; anyone over the age of puberty shall be considered an adult; a person who has reached the age of 21 shall be considered of age, or simply a major, and anyone who has not reached that age shall be considered below legal age, or simply a minor".

196. Act n°19,221, approved and promulgated on 1 June 1993, sets the age of majority at 18 years and defines "minor" from the opposite angle from article 1 of the Convention: "A person reaches the age of majority at the age of 18 years". A minor is therefore any person who has not reached the age of 18.

197. This definition of minors and majors is of general application, subject to the exceptions established by the law in certain matters.

198. The term "adult", which sometimes used, although incorrectly, as the opposite of "minor", has a different meaning in Chilean legislation: an adult is a person who has passed the age of puberty, i.e. males over the age of 14 and females over the age of 12. Accordingly, a person may be both a minor and an adult (art. 26 of the Civil Code).

- **The minimum legal age defined by the national legislation for the following:**

  . **Legal and medical counselling without parental consent;**

199. Chile has no specific legislation on medical counselling. However, in practice anyone may be given such counselling without the consent of parents or legal representatives being mandatory.

200. Full legal capacity is required for the issue of instructions to a lawyer to act in civil cases, so that minors cannot legally take such action. In criminal and juvenile cases the judicial practice allows minors (under 18) to issue such instructions.

  . **Medical treatment or surgery without parental consent;**

201. The person concerned must have reached the age of majority (18 years).

  . **End of compulsory education;**

202. Since the adoption of the Primary Education Act in 1928 primary education has been compulsory for a period of eight years.

  . **Admission to employment or work, including hazardous work, part-time and full-time work;**

203. Chapter 2 of Book 1, Title 1, of the Labour Code, contained in Decree-Law n°1 of 1994, deals with "the capacity to conclude contracts and other labour relations concerning women and children". Chapter 1 of Book 1, Title 2, regulates the employment of under-18s as apprentices.

204. The following are some of the other regulations contained in the Labour Code:

(a) For the purposes of the labour laws persons aged 18 or over are regarded as having reached the age of majority and may freely enter into contracts for the provision of their services;

(b) Persons aged under 18 but over 15 may conclude labour contracts with the express authorization of their father or mother or of an ascendant relation or a guardian. However, they may not work underground or at work which requires excessive strength or may prove dangerous to their health, safety or morals. Since in no case may under-18s work for more that eight hours a day, they may not work overtime;

(c) Children aged under 15 but over 14 (i.e. who have reached their fourteenth birthday) may conclude labour contracts provided that the authorization mentioned above is obtained, that they have completed their compulsory education, and that they perform only light work which does not harm their health or development, does not impede their attendance at school or their participation in education or training programmes. Like the age group mentioned above, in no case may they work more than eight hours a day (arts. 13 and 14 of the Labour Code).

205. In practice, however, many children do informal own-account work not regulated by the Labour Code: for example, street vendors, cartoneros (collectors of waste cardboard for sale), etc., who have no legal protection.

- **Marriage;**

206. In order to marry, persons aged under 18 but over 14 in the case of boys or over 12 in the case of girls require the express consent of their father or, in his absence, of their mother or of a legitimate ascendant of a close degree of affinity or, failing that, of a guardian or Civil Registry official (arts. 106 and 107 of the Civil Code).

- **Sexual consent;**

207. Except for the provisions on the marriage of minors described above, Chile's legislation does not contain any specific rules on this subject. However, article 361 of the Criminal Code treats sexual relations with a girl aged under 12 as the crime of rape; it may thus be inferred that 12 is the minimum legal age for girls to have voluntary sexual relations.

208. There is no rule of this kind for boys.

- **Voluntary enlistment in the armed forces;**

209. Males aged 18 or over have to perform compulsory military service without the option of conscientious objection.

- **Conscription into the armed forces;**

210. A bill amending the conscription legislation is being processed; it creates the possibility of civilian service as an alternative to compulsory military service; young persons of either sex may opt freely to perform civilian service.

- **Participation in hostilities;**

211. Persons must have reached the age of 18 in order to participate in hostilities.

- **Criminal responsibility;**

212. The following persons are exempt from criminal responsibility:

(a) Children aged under 16 years;

(b) Children aged over 16 but under 18 who are not deemed to possess "discernment".

213. In the latter case, a determination as to whether a child acted with or without discernment requires a prior statement issued by a juvenile judge in accordance with the procedure established by law. This statement is based on a technical and legal assessment of the capacity of the person concerned to understand the criminal nature of his act.

214. Children aged under 18 but over 16 who are declared to have acted with discernment are dealt with in the ordinary criminal courts. If they are found guilty, they receive the minimum sentence for the offence reduced by one degree.

- **Deprivation of liberty, including by arrest, detention and imprisonment, inter alia in the areas of administration of justice, asylum-seeking and placement of children in welfare and health institutions;**

215. There are various situations in which children may be deprived of their liberty or have it restricted. It must be remembered that there is no separation of proceedings (i.e. separation of offences from protection matters) in the juvenile law, so that the courts are legally empowered to apply the measures of article 29 in both situations. Nevertheless, the situations described below may be distinguished.

Juvenile offenders

216. Children aged under 18 but over 16 who have engaged in conduct constituting an offence may be deprived of their liberty pending a determination of discernment.

217. If they are found to have acted without discernment a protection measure may be ordered in accordance with the provisions described below.

218. If they are found to have acted with discernment they are subject to the general rules of criminal proceedings and may therefore be deprived of their liberty by arrest, conviction or imprisonment.

Protection

219. Any child aged under 18 who has been neglected or maltreated or is in general terms "in material or moral danger" may be subjected to measures of deprivation or restriction of liberty in the following cases:

220. Initially, pending the determination of the measure to be ordered for his future care the child may be placed in a transit and diagnosis centre or in some cases in an observation and diagnosis centre and thus deprived of his liberty.

221. Subsequently, the juvenile judge may decide to order a protection measure involving deprivation of liberty (placement in a special education establishment as indicated by the law) or restriction of liberty (probation). These protection measures are contained in the Juvenile Act (n°16,618).

- **Capital punishment and life imprisonment;**

222. Chile's legislation provides minors with a number of safeguards in connection with deprivation of liberty:

(a) The existence of a police unit responsible for dealing with judicial orders relating to minors;

(b) The existence of special facilities run by the Juvenile Police, which are the only places where minors may be detained;

(c) The prohibition of the detention of minors in any places other than the ones mentioned above, and the existence of sanctions applicable to any official disregarding this prohibition;

(d) Specific procedures for minors deprived of their liberty either under a protection measure pending a determination of discernment or following conviction or sentencing; these procedures provide that minors must be kept in special facilities completely separate from adults.

223. Minors subject to protection or rehabilitation orders may not be imprisoned.

224. Pursuant to the provisions of the Criminal Code, the death penalty may not be imposed on minors. Article 72 states:

> "Persons aged under 18 years but over 16 years who are not exempted from responsibility by virtue of a declaration by the court that they acted without discernment shall be subject to a lesser sentence than the minimum provided by law for the offence in question".

- **Giving testimony in court, in civil and criminal cases;**

225. Persons aged 14 years or older are competent to give testimony in court; persons aged 15 or older do so without taking the oath.

- **Lodging complaints and seeking redress before a court or other relevant authority without parental consent;**

226. There is no change in the information given in the initial report.

- **Participating in administrative and judicial proceedings affecting the child;**

227. The general rules of the legislation must be applied in administrative proceedings, i.e. in order to act in this sphere a person must have reached the age of majority. In judicial proceedings a distinction - already mentioned above - must be made between civil and criminal cases involving children. In both civil and criminal matters minors must act through their legal representatives.

228. In labour matters a minor who has obtained authorization to work in accordance with the law and has signed a labour contract is regarded as fully competent for administrative purposes, may enjoy the goods acquired with the proceeds of his work (his own earnings from his employment), and may perform the relevant acts, as is clear from article 13.5 of the Labour Code and article 246 of the Civil Code. Consequently, a minor who has signed a labour contract may take part in both judicial and administrative proceedings resulting from violation of the labour legislation or of the obligations set out in the labour contract.

- **Giving consent to change of identity, including change of name, modification of family relations, adoption, guardianship;**

229. The age of majority is required (18 years).

- **Having access to information concerning the biological family;**

230. Article 34.2 of the Adoption Act (n°18,703) provides that a certified copy of the adoption order shall be issued by a decision of the court at the request of the adopted person, his legitimate descendants or the adoptive parents. This means that the adopted person has the right to request the court to deliver a copy of the order by which he was adopted. However, the Act does not establish the right of adopted persons to be informed about their origins.

231. In order to request a copy of the adoption order a person must be aware of the fact of his adoption, and this knowledge depends solely on the voluntary disclosure of this fact by the adoptive parents, for otherwise the adopted person would never be aware of it, especially if the adoption was granted when he was a small child.

- **Legal capacity to inherit, to conduct property transactions;**

- **To create or join associations;**

232. There is no legal impediment to inheritance by children either under a will or by a judicial procedure. Chile's legislation even recognizes the inheritance rights of persons yet to be born. The age of majority is required in the other matters mentioned.

233. When it comes to forming or joining associations, the law recognizes that a minor who is subject to a labour contract has the capacity to participate in the formation of trade unions and to join or withdraw from such unions, although a minor may not hold the post of trade-union leader since here article 236.1 of the Labour Code stipulates the age of majority (18 years).

- **Choosing a religion or attending religious school teaching;**

234. Since there is no specific legislation on this point the general rules apply: a person must be of age, for otherwise he is subject to parental authority.

- **Consumption of alcohol and other controlled substances;**

235. The measures for the protection of children against the illicit use of narcotic drugs and psychotropic substances or involvement in the production or illicit trafficking of such drugs and substances include:

236. Act n°19,366 of 30 January 1995 and Decree n°565 of 26 January 1996, which impose sanctions on illicit trafficking in narcotic drugs and psychotropic substances and amend a number of existing legal provisions. The Act establishes special procedural rules for minors. One such rule is that children aged under 18 but over 16 must be brought before a juvenile judge who, dispensing with the determination of discernment, may order either compulsory attendance at a prevention programme or community service. In all cases the judge must order the prior medical examination provided for in the Act and in the expressly specified cases he must order the child to undergo the recommended treatment and specify measures to ensure compliance.

- **How the minimum age for employment relates to the age of completion of compulsory schooling, how it affects the right of the child to education and how relevant international instruments are taken into account;**

237. As already explained, children aged under 15 but over 14 (i.e. who have reached their fourteenth birthday) may conclude contracts for the provision of their services provided that they

have the required authorization, have completed the period of compulsory education, and perform only light work which does not harm their health or development or impede their attendance at school or participation in education or training programmes.

- **In cases where there is a difference in the legislation between girls and boys, including in relation to marriage and sexual consent (article 2);**

238. The situation described in the initial report has not changed.

- **In cases where the criteria of puberty is used under criminal law, the extent to which this provision is differently applied to girls and boys, and whether the principles and provisions of the Convention are taken into consideration.**

239. The situation described in the initial report has not changed.

III. GENERAL PRINCIPLES

A. Non-discrimination
(Article 2)

25. Reports should indicate whether the principle of non-discrimination is included as a binding principle in the Constitution or in domestic legislation specifically for children and whether all the possible grounds for discrimination spelled out in article 2 of the Convention are reflected in such legal provisions. Reports should further indicate the measures adopted to ensure the rights set forth in the Convention to each child under the jurisdiction of the State without discrimination of any kind, including non-nationals, refugees and asylum-seekers.

240. As stated in the initial report, the principle of non-discrimination is embodied in the Constitution.[9]

241. However, during the period covered by the present report the Government has passed a number of pieces of legislation on this subject which establish special rules for specific groups: for example, it ratified the Convention on the Elimination of All Forms of Discrimination against Women (Act n°19,253 of 5 October 1993) and adopted the Indigenous Peoples Act and the Social Integration of Disabled Persons Act (n°19,284 of 14 January 1994).

242. In practice there exist embryonic instruments, procedures, measures and programmes designed to give effect to the principles of non-discrimination and respect for differences. For example, in the case of the children and young people cared for by SENAME one such instrument is Ministry of Justice Decree n°730 of 19 July 1996, which approved the regulations for the implementation of Title IV of Act n°16,618 on children's homes and care institutions. In its preamble this Decree states the determination of the present Government to bring Chile's legislation properly into line with the principles of the Convention and the treaties, recommendations and guidelines adopted by international bodies of which Chile is a member. The Decree also provides that the transit and distribution centres and the observation and diagnosis centres must fully observe and respect the rights accorded to children and young people.

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[9] See paragraph 64 of the initial report.

26. Information should be provided on steps taken to ensure that discrimination is prevented and combated, both in law and practice, including discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child, his/her parents or legal guardians.

243. The State has enacted legislation regulating certain specific matters, as indicated in paragraph 242 above.

244. With regard to the steps taken by the State to prevent and combat discrimination, both in law and in practice, on the basis of birth, in August 1993 the Government sent a filiation bill to the Congress; on 26 October this bill became a law of the Republic (Act n°19,585), due to enter into force on 26 October 1999. The main purpose is to dispense with the various categories of filiation contained in civil legislation. The main changes introduced by this Act are described below.

245. It eliminates all the discriminatory references in the Civil Code to the distinction between legitimate children (conceived within matrimony or legitimized by the subsequent marriage of the parents), natural children (recognized by one or both parents without their being married), and simply illegitimate children (not recognized in any way).

246. It establishes the principle of unrestricted investigation of paternity and maternity and admits all kinds of evidence, including biological evidence. If the alleged father or mother refuses to take part in the testing of the evidence before a court, such refusal is treated as a serious presumption of its accuracy and, together with other evidence, it may be used to validate the filiation.

247. In order to deter unfounded legal actions, the Act provides that applications to the courts must be accompanied by an outline of the evidence supporting the facts.

248. It establishes equal rights with respect to succession and the basic principle that all the children are equal heirs of their parents.

249. It removes the distinction between "appropriate maintenance" (of broader scope), exclusively for legitimate and natural children, and "essential maintenance" (of narrower scope), for simply illegitimate children.

250. The rules on paternal authority are also amended: the two parents (if both exist) exercise their authority jointly and all the children are subject to it. Consequently, natural and illegitimate children can rely on legal representation by their parents, whereas at present their status does not accord them this benefit, for under a strange provision the parent who first voluntarily recognizes the child is responsible for his or her legal representation, but as a custodian and not as a parent.

251. The rule is that the custody of children of separated parents is in principle awarded to the mother, but the grounds for this are being changed to the effect that custody may be denied to the mother and awarded to the father if for justified reasons the judge so decides. This new provision revokes the current provision that custody may be awarded to the father only if the mother exhibits such a degree of depravity as may cause fear of the perversion of the child, or if there exists some extreme situation such as mental incapacity, chronic alcoholism, neglect of the child's care, upbringing or education, condonation of his begging or vagrancy, conviction for vagrancy, abduction or abandonment of the child, maltreatment or setting a bad example, or any other situation which places the child in moral or material danger.

27. Please indicate the specific measures adopted to reduce economic, social and geographical disparities, including between rural and urban areas, to prevent discrimination against the most disadvantaged groups of children, including children belonging to minorities or indigenous communities, disabled children, children born out of wedlock, children who are non-nationals, migrants, displaced, refugees or asylum-seekers, and children who are living and/or working on the streets.

252. Some relevant measures have already been mentioned under guideline 18.

253. However, attention must be drawn to the National Anti-Poverty Programme formulated in 1995, the main aims of which include: a substantial reduction of extreme poverty and the improvement of the quality of life and living conditions of the country's poorest social groups and localities; the generation of quality jobs in order to ensure that the resulting higher employment rate also means higher personal incomes; the social integration of the sectors and groups of the population which, as a result of economic exclusion or marginalization, or of cultural, ethnic, gender or age discrimination, have greatest difficulty in securing a share in the benefits of growth, with particular emphasis on children and women.

254. One of the 10 commitments made in this Programme is to deliver equality of opportunities for all children, young people and women.

255. The Programme entered a new phase in 1997 when the work was taken over by the Social Ministers' Committee. This Committee sets the main directions of the Programme's activities and monitors and evaluates the results obtained.

28. Please provide information on the specific measures taken to eliminate discrimination against girls and when appropriate indicate measures adopted as a follow-up to the Fourth World Conference on Women.

256. The concrete measures to eliminate discrimination against girls focus on matters connected with education:

(a) The recently adopted document "Fundamental goals and compulsory minimum curriculum", which governs basic general education in Chile, includes among its cross-cutting goals the need for pupils at this level to develop the ability to "recognize, defend and respect the equality of the essential rights of all persons, without distinction as to sex, age, physical condition, race, religion or economic status";

(b) Within the context of the adoption of these new fundamental goals and compulsory minimum curriculum the Ministry of Education has initiated the formulation of course plans and syllabuses for this level. The ones for the first and second grades are currently being completed. These documents take greater care with the language used for various subjects such as mathematics, natural sciences, social studies, etc., in order to give women and girls a higher profile. Some subjects also include activities to promote progress towards this same goal and to enhance the status of domestic work (for example in the syllabuses for the sub-topic "Comprehension of the natural, social and cultural environment" and its cross-cutting objectives;

(c) With regard to textbooks and teaching materials, the guidelines for the production of textbooks given to publishers participating in the bidding exercise conducted by the Ministry included the requirement that the texts should not contain any gender discrimination. In addition, in order to facilitate compliance with this requirement the National Service for Women and the Ministry published "Feminine profile: a guide to the production of non-sexist textbooks".

257. In parallel with this work, during the 1998 school year the Ministry distributed to adult-education institutions two study guides on "Women and work" produced by the National Service for Women.

258. Lastly, on the different issue of pregnant adolescents' access to education, the Ministry has a regulation expressly prohibiting schools in receipt of any kind of State funding from cancelling a girl's enrolment on the grounds of her pregnancy. There remains the problem of private schools, for in the absence of any legal regulation of this matter they can decide at their own discretion on the future of a student who has become pregnant.

259. Accordingly, and in view of the ease with which a regulation can be amended, a matter which depends in fact on the attitude of the Government of the day, the Congress currently has before it a bill which seeks to elevate the ban on expulsion on the grounds of pregnancy to the status of a legal regulation and to make it universally applicable.

29. Please indicate measures taken to collect disaggregated data for the various groups of children mentioned above.

260. Please refer to paragraphs 120 to 126 above.

30. What measures have been taken to prevent and eliminate attitudes to and prejudice against children contributing to social or ethnic tension, racism and xenophobia?

261. Please refer to paragraphs 243 to 251 above.

31. Information should also be provided on the measures pursuant to article 2, paragraph 2 taken to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child's parents, legal guardians or family members.

262. It must be borne in mind on this point that the principles of non-discrimination and equality before the law are clearly embodied in Chile's Constitution, as stated in the initial report.

263. These principles are protected in turn by the constitutional action of recurso de protección (remedy of protection) available to all citizens by application to the higher courts of justice (Court of Appeals in the first instance, and Supreme Court in the second).

264. In addition, and as already pointed out, a number of regulations designed to prevent discrimination have been enacted; these regulations, which apply to all citizens and by extension to children, include the Indigenous Peoples Act and the Social Integration of Disabled Persons Act.

32. Please indicate major problems encountered in implementing the provisions of article 2 and plans to solve these problems, as well as any evaluation of progress in preventing and combating all forms of discrimination, including those arising from negative traditional practices.

265. Ever since the incorporation of the Convention into Chile's judicial system the question of the best interests of the child has been a subject of discussion in the various spheres affecting children's lives. The clear connection between the lives led by children and the juvenile law is one of the issues which have received greater attention, for many of the persisting obstacles are related to the current legislation, which does not take account of the best-interests principle. As one means of securing

substantial progress in this area the Ministry of Justice carried out a detailed review of the juvenile law and adopted a set of provisions to this end, as well as having in the pipeline other provisions which are expected to be adopted in the near future. For further information on this point please refer to the discussion under guideline 13 above.

B. Best interests of the child
(Article 3)

33. Reports should indicate whether the principle of the best interests of the child and the need for it to be a primary consideration in all actions concerning children is reflected in the Constitution and relevant national legislation and regulations.

266. As stated in the initial report, although this principle is not expressly embodied in the domestic legislation in force before the arrival of the Convention, it has been incorporated by means of the Convention.

267. The formulation, proposal and implementation of policies for children take account of the importance which the State attaches to children. This fact is also manifested in the legislative initiatives reported under guideline 13, which are designed to improve the juridical position of children by bringing domestic legislation into line with the Convention.

268. The bills which are currently being sponsored - on guardianship, juvenile criminal offences, adoptions, family courts, and visits and subsidies - contain clear references to the best interests of the child and they are all designed to bring domestic legislation into line with the international legal instruments.

34. Please provide information on the consideration given to this principle by courts of law, administrative authorities or legislative bodies, as well as by public or private social welfare agencies.

269. It is very important to keep in mind the existence of a special legal system for minors. The juvenile courts have special knowledge of juvenile matters and they must always take the best material and spiritual interests of the child into consideration when ruling in a case.

270. The juvenile courts are always advised by expert professionals such as social workers, psychologists, doctors, etc., who take cognizance of the best interests of the child in question in their reports to the court.

271. The courts also have the technical support of SENAME, a public agency working for children with the assistance of trained professionals, who ensure respect for the rights of the child.

272. Thus, in judicial matters the juvenile courts always take a child's best interests into account when ordering any measure affecting him.

35. Please provide information on how the best interests of the child have been given primary consideration in family life, school life, social life.

273. Attention must again be drawn to the work of SENAME, whose purpose is the social integration of children and young people who have suffered serious infringement of their rights or have broken the law. In conjunction with other public and private bodies SENAME runs a number of social programmes based on the promotion of and respect for children's rights.

274. For example, in the case of the children assisted by the SENAME adoptions unit, constant encouragement has been given to the improvement of professional standards in the adoption process, including the proper counselling and support of the families of children who may eventually be adopted. When it is necessary to seek adoptive parents the selection procedures used in order to find potentially suitable families take account of the needs of each child, always keeping in mind the best-interests principle.

275. In the case of the children helped by the SENAME assistance network, the preferred social-integration option is to consolidate the family of origin in which the child has to grow up; if this not possible, a foster family is sought. This policy has manifested itself in the funding of support programmes to consolidate the families of children whose rights are being infringed.

276. Since the separation of a child from his family is a measure of last resort, SENAME has introduced an extensive system of home visits in order to make it easier for the child to remain with his family.

277. This system was first introduced in 1992 as a first step in Chile's adaptation to the provisions of the Convention following its signature.

36. Information should be included on the measures taken in the light of article 3, paragraph 2, including of a legislative and administrative nature, to ensure children such protection and care as is necessary for their well-being.

278. As mentioned above, SENAME is the administrative agency responsible for the protection of children who have suffered serious infringement of their rights or have broken the law. In fact, although the protection and care provided for such children does not depend on their status, SENAME concentrates on marginalized and disadvantaged children, trying to make good the defects of the general system operated under the social policies.

279. Chile's current system of special assistance and protection is based on the traditional doctrine, according to which the State plays the role of protector through a body of regulations.

280. The protection policies of the system for the care of children whose rights have been infringed are based on the powers invested in the State to protect and ensure the well-being of children in irregular situations, powers exercised through the juvenile courts, the police and the administrative bodies responsible for providing children with assistance and protection in their private lives and family relationships.

281. The current legislation on the personal care, upbringing and education of children in the family (juvenile legislation) allows extensive intervention by the State through the specialized courts, which are empowered to remove a child from his parents' care and to protect him on the basis of provisions susceptible of broad interpretation.

282. It is in accordance with this doctrine that the State exercises its protection functions with respect to children and young people deemed to be in an irregular situation, which means:

(a) Children who have no one to exercise guardianship over them (children with parents lacking legal capacity, orphans and abandoned children);

(b) Children for whom the exercise of guardianship constitutes a risk or danger (victims of maltreatment and children in physical or moral danger);

(c) Children exhibiting behavioural disorders which do not constitute violations of the criminal law and children in situations of social risk;

(d) Violators of the criminal law aged under 16 and children aged 16 to 18 declared to lack discernment and therefore not subject to prosecution.

283. Chile's current legal instrument governing the system for the protection of children is the Juvenile Act (n°16,618); this system is based mainly on the juvenile judges who, as already pointed out, take decisions on the future lives of children deemed to be "in an irregular situation"; they have the following options:

(a) To return the child to his parents or guardians or other persons legally responsible for him, with a caution;

(b) To order the child to be placed on probation;

(c) To place the child for as long as deemed necessary in one of the special education establishments provided for in the Act;

(d) To entrust the child to the care of a person who will provide for him in the family, whom the judge regards as capable of supervising his upbringing.

284. The Act also establishes a special unit within the Directorate-General for the Carabineros (the uniformed police) to exercise protection functions with respect to children and young people whom the Act is seeking to help. This unit is called the Juvenile Police.

285. Since the exercise of these functions involves the restriction of the rights of those who are "benefited" by such exercise, the Act imposes limits by means of provisions regulating the measures which the police may take in this matter: prohibition on holding children and young people in facilities not authorized by law; obligation to bring detainees before a competent court immediately or, if this is not possible, within a time-limit of 24 hours; and if a minor is arrested on a charge of committing an offence and has a known address, is employed in a verifiable activity, or produces a guarantee of his appearance at a future court hearing, the Juvenile Police must limit itself to ordering such appearance and then immediately release the minor. In the case of children requiring protection, the parents or guardians must first be notified and the children returned to them; only in the absence of any parents or guardians are the children brought before a juvenile judge with a view to the ordering of a protection measure. Lastly, the Juvenile Police are expressly prohibited from holding persons under 18 years of age in the same place as older detainees or convicts.

286. As already pointed out, SENAME is the administrative agency responsible for taking any measures necessary for helping or protecting children. It works through public and private bodies for which, in addition to funding, it has to provide supervision, monitoring, encouragement, guidance and technical coordination.

287. SENAME has been doing important work since 1990 to give effect to the provisions of the Convention; it has defined its mission on the basis of the principles contained therein and demanded a mandate to make these principles manifest in Chilean society.

288. The relations between SENAME and it collaborating organizations are regulated by Decree-Law n°1,385, which specifies the assistance systems with which these organizations must register and the State subsidy receivable for each child assisted.

289. This arrangement is based on the concept of the subsidiary role of the State, which does not take direct charge of the care of the children in question but instead supports other agencies in the performance of this function.

290. The 11 assistance systems described in the Decree-Law perform the function of offering options to the juvenile judges with respect to the measures which the law empowers them to order.

291. These 11 systems for furnishing assistance to children and young people requiring special protection from the State can be classified into four areas of activity:

Area of activity	***Description***	***Assistance systems***
Observation/ diagnosis	The aim is to evaluate children who require assistance or protection or are in conflict with the justice system and to support the juvenile judges in their decision-taking.	- Observation/diagnosis (residential) - Transit and placement centres - Transit and placement centres for breastfeeding mothers and mothers with preschool children (residential)
Protection	The aim is to alleviate or eliminate faulty or improper care in order to secure the child's social reintegration as soon as possible.	- Simple protection (residential) - Family placement - Protection in the case of slight or moderate problems (residential) - Mental rehabilitation (residential)
Rehabilitation	For children and young people with behavioural problems and/or who have broken the law. The aim is rehabilitation with a view to proper reintegration in society.	- Correction of conduct (residential) - Probation - Correction of conduct (day attendance)
Prevention	The aim is to support the family and children and young people deemed to be at social risk in order to correct the conditions encouraging their vulnerability.	- Prevention - Protection in cases of slight of moderate problems (day attendance) - Mental rehabilitation (day attendance)

Source: SENAME, "Regional map of children in Chile", Santiago, 1995.

37. Information should also be provided on the steps taken to establish appropriate standards for all public and private institutions, services and facilities responsible for the care and protection of children and to ensure that they conform with such standards, particularly in the areas of safety, health, number and suitability of their staff, as well as competent supervision.

292. As already mentioned, the Act constituting SENAME establishes its function of supervising and guiding its collaborating agencies in order to guarantee the quality of the care provided for children under the assistance systems.

293. This function is performed by the SENAME regional offices and coordination units, which have technical and financial supervisors. The supervision is based on field visits and interviews with management, professional and care staff, as well as with the children and young people in question and any outside agents who may be needed; the supervisors also examine the documents on the care of the beneficiaries as one of the most important sources in this work.

294. Supervision guidelines were formulated in 1992 with respect to matters of quality of life and technical intervention; they have not so far undergone any changes.

295. Work is currently proceeding on the design of an instrument for measuring the extent to which the rights of children and young people are exercised in the assistance network. This commission was entrusted to the School of Sociology of the University of Chile; once finalized, the instrument will be introduced in the network's centres, following training of the regional supervisors. It will have to be applied on a regular basis and the results will be used to provide guidance for SENAME in the promotion, defence and observance of the rights of the child in the network's centres.

38. In the light of the legislative and administrative measures taken to ensure the consideration of the best interests of the child, please indicate the main problems remaining in this respect.

296. In general terms, the biggest remaining problem is that this principle is still not taken into account in all of the activities of the State, although, as pointed out under guideline 13, progress is being made, especially with regard to legislation, in the adaptation of Chile's laws to the principles of the Convention.

39. Please indicate in what ways the principle of the "best interests of the child" is made part of the training of professionals dealing with children's rights.

297. Where SENAME is concerned, matters connected with the rights of the child and children's comprehensive development form a permanent part, amongst other elements, of the training of the staff of the collaborating agencies.

298. The following table describes the situation in this respect:

Training courses for the staff of agencies collaborating with SENAME

Subject/coverage	*1994*	*1995*	*1996*	*1997*	*Total*	*Amount (pesos)*
Rights of the child	20	170	60	---	250	6 956 000
Child development	100	185	160	158	603	18 690 000
Maltreatment, abuse and sexual abuse	20	150	100	95	365	15 847 000
Rehabilitation of offenders	120	277	175	185	757	21 890 000
Total	260	782	495	438	1 975	63 383 000

Source: SENAME.

299. The courses lasted an average of 35 hours and were taught by bodies recognized by the State or by suitable professionals bodies recruited by invitation to bid.

300. In 1997 the Gendarmería de Chile (prison warders) ran a course on specialization in children's problems for a group of 50 warders having direct contact with minors in the special juvenile units. This training was given under the auspices of the Ministry of Justice with the assistance of SENAME and the Gendarmería.

301. The specific topic of childhood is not included in the standard training curriculum for prison staff, but it has been decided that staff training should address this specialized subject. A pilot training programme will therefore be introduced in 1998 for officers having direct contact with minors in the juvenile unit of the Santiago Sur CDP (a detention centre).

302. In the case of vocational training, Diego Portales University offers a post-graduate course for professionals specializing in this subject; one of the main topics of this course is the Convention and its incorporation in public policy. The course has been operating since 1997. Furthermore, consideration is being given to the inclusion of child development courses in the framework curricula of the country's various higher education institutes for subjects such as nursery education, special education, basic education, psychology, and social work.

303. Lastly, ever since its creation the Academy of the Judiciary, a specialized institution for personnel training in the justice system, especially social workers and judges, has been running special courses on children; these courses include the teaching of the Convention among their general aims.

C. The right to life, survival and development

(Article 6)

40. Please describe specific measures taken to guarantee the child's right to life and to create an environment conducive to ensuring to the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity, and to prepare the child for an individual life in a free society.

304. The Constitution accords to everyone the right to life and physical and mental integrity. The law protects the lives of persons yet to be born and prohibits abortion.

305. The death penalty may not be imposed on minors.

306. With respect to the right to survival and development, Chile's social policies aim at the integration of all the most vulnerable groups, including children, into the development process. Most of the social investment under the national budget is allocated to the battle against poverty and the effort to secure better living conditions for the people through improvements in health care, housing, education, etc., which enhance the chances of survival and development of all children, especially those living in extremely difficult circumstances.

41. Information should also be provided on the measures taken to ensure the registration of the deaths of children, the causes of death and, where appropriate, investigation and reporting on such deaths, as well as on the measures adopted to prevent children's suicide and monitor its incidence and to ensure the survival of children at all ages, including adolescents, and the prevention of risks to which that group may be particularly exposed (for example, sexually transmitted diseases, street violence). Please provide relevant disaggregated data, including on the number of suicides among children.

307. In general terms, any death not from natural causes must be investigated by the justice system in order to determine whether any other persons are implicated in the cause of the death.

308. According to a 1997 Health Ministry study, between 1986 and 1996 the national suicide rate fluctuated between 4.86 and 6.54 per 100,000 inhabitants. A comparison of the overall suicide rate

with the juvenile rate shows a lower rate for juveniles aged 10 to 19 of between 2.02 and 3.13 per 100,000.

309. SENAME has established administrative instructions for its regional offices, which in turn instruct the collaborating agencies, requiring any deaths of children in the care network to be reported to the central office. The necessary investigations must also be carried out when the cause of death is not clear. In addition, the central computerized information system for tracking the movement of children around the network, which is updated every month, includes death among the reasons for quitting the network; permanently updated information on this topic is thus available.

D. Respect for the views of the child
(Article 12)

42. Reports should indicate how the right of the child to express views freely on all matters affecting him or her, and provision for those views to be given due weight have been incorporated in legislation.

310. As already explained on pages 19-20 of the 1994 document "Respuesta del Gobierno de Chile ante el Comité de los Derechos del Niño", the measures to give effect to the principle of respect for the views of the child are still at an embryonic stage. However, the following measures deserve mention:

(a) Promulgation by the Ministry of Education of a decree regulating the operation of students' centres, including the democratic election of student representatives;

(b) The Filiation Act attaches some weight to the views of children "who have sufficient discernment" at the time of a guardianship decision;

(c) Article 2.14 of Decree n°730 of 19 July 1996, which approves the regulations on children's homes and care institutions, establishes the right of children in care freely to express their views, which must be taken duly into consideration, depending on the age and maturity of the child in question.

311. Nevertheless, there is a lack of legal instruments to facilitate and encourage the free expression of children's views on matters affecting them.

43. Please provide information on legislative and other measures taken to ensure the right of the child to express views in a manner consistent with his or her evolving capacities, including in:

- **The administration of juvenile justice**

312. The administrative judicial proceedings affecting children do indeed envisage consulting them about their views, but this approach is optional and not binding on the authorities. The disregard of the procedural safeguards, in particular the right to defence counsel in guardianship or protection proceedings, demonstrates the precarious status of this principle.

- **Placement and life in institutional and other forms of care**

313. There has been no deliberate progress in this direction in the measures adopted to give effect to this principle in the care institutions available as alternatives to a child's family. However, the new policy introduced by SENAME in 1990 focuses on the right of the child to the protection of his

comprehensive development, which in this connection is manifested in the new arrangements for the supervision of alternative care institutions, including a more important role for interviews and meetings with the children concerned. Problems and complaints raised by children are investigated when some fault appears to be present, especially with respect to maltreatment.

44. Please indicate the opportunities provided for the child to be heard in judicial and administrative proceedings affecting him or her, as well as the situations in which the child can intervene directly or through a representative or an appropriate body.

314. Please refer to the information given under guidelines 42 and 43 above.

45. Please provide information on any bodies or instances where the child has a right to participate in decision-making, such as schools or local councils.

315. Please refer to the information given under guidelines 42 and 43 above.

46. Please indicate what measures have been taken to raise the awareness of families and the public in general of the need to encourage children to exercise their right to express their views, and to train professionals working with children to encourage children to do so, and to give their views due weight.

316. There are various initiatives, although they are fragmented and uncoordinated, including the ones described below.

317. As already mentioned, a number of training programmes have been introduced for the personnel of the institutions collaborating with SENAME with a view to informing them about the rights of the child and topics connected with children's psycho-social development. For more details, see the reply given under guideline 39.

318. Particular attention must be drawn to the number of public agencies which took part in the planning, organization and conduct of the seminar on the rights of the child held in October 1997 in the National Congress under the auspices and sponsorship of UNICEF and with the participation of a group of "parliamentarians for children". One of the most striking aspects of this event was the opportunity given to children to voice their opinions.

319. One of the most significant publicity activities is the work done by municipalities through their children's offices, which have held meetings for children, produced publicity materials, and carried out a series of measures to garner the opinions of children at the commune level.

47. Please indicate how the views of the child obtained through public opinion, consultations and assessment of complaints are taken into consideration in the legal provisions, and in policy or judicial decisions.

320. As pointed out in the comments under guideline 44, the juvenile judges have the option of hearing a child's views, but as there is no procedural rule on this point the exercise of this right is variable in practice. There is no systematic information on this matter.

IV. CIVIL RIGHTS AND FREEDOMS
(Articles 7, 8, 13-17, and 37 (a))

48. Under this section, States parties are requested to provide information on the measures adopted to ensure that the civil rights and freedoms of children set forth in the Convention are recognized by law specifically in relation to children and implemented in practice, including by administrative and judicial bodies, at the national, regional and local levels, and where appropriate at the federal and provincial levels.

A. Name and nationality
(article 7)

49. Please indicate the measures taken or envisaged to ensure that every child is registered immediately after birth. Please also indicate the steps undertaken to prevent the non-registration of children immediately after birth, including in view of possible social or cultural obstacles, inter alia in rural or remote areas, in relation to nomadic groups, displaced persons, as well as asylum-seeking and refugee children.

321. There are no changes to the information given in paragraphs 70-71 of the initial report.

50. Please provide information on the measures taken to sensitize and mobilize public opinion on the need for birth registration of children, and to provide adequate training to registry personnel.

322. The Civil Registry Act has long been in force in Chile; citizens have thus acquired the habit of registering new births in the Civil Register, so that there is no need for any campaigns to that end. Furthermore, the Civil Registry has offices in most of the country's communes.

51. Please also provide information on the elements of the child's identity included in the birth registration and the measures adopted to prevent any kind of stigmatization or discrimination of the child.

323. For the purposes of the identification of a new-born child at the time of registration, the application must be accompanied by a birth certificate issued by the doctor or midwife who attended the birth; this certificate gives all the details of the birth (date, place and time) and such details of the baby as weight, sex and height, as well as the birth method.

324. Once the birth certificate has been issued, the child is assigned a number which identifies him throughout his life. This is the Single National Roll number (RUN number), which later becomes the child's identity card number.

52. Please indicate the measures adopted to ensure the child's right to know and be cared for by his or her parents.

325. The recently adopted Filiation Act establishes a set of rules eliminating the categories of child (legitimate, natural, and simply illegitimate) officially used in Chile until very recently. Instead, the Act establishes the full legal equality of the rights governing the civil relations of all children with their parents, regardless of the child's status at birth.

326. The rules on custody provide that:

(a) The parents jointly, or the surviving father or mother, are responsible for the personal custody, upbringing and education of their children;

(b) In the case of a child not conceived or born within wedlock but acknowledged by one of the parents, the parent who acknowledges him bears that responsibility. If neither parent acknowledges the child, custody is determined by the courts;

(c) If the parents live apart, the mother has personal custody of the child;

(d) If both parents are physically or mentally incapacitated, the courts may award custody of the children to another competent person or persons. Preference is given to the closest blood relations, especially to ascendants. In this (summary) procedure the judge must hear the children and the parents.

327. On visiting rights the Act provides that:

(a) A father or mother who does not have personal custody of the child is not denied the right or exempted from the duty to maintain a direct and regular relationship with the child; this right is exercised with the frequency and freedom agreed with the person having custody, or failing that with the persons whom the court deems appropriate for the child;

(b) This right is suspended or restricted when its exercise is manifestly harmful to the child's well-being, a fact to be determined fundamentally by the court.

328. Notwithstanding these rules, it is necessary to amend the Juvenile Act in its treatment of the option available to the juvenile courts to regulate the situation of children lacking custody or in a situation of "disturbed custody" included in the category of "children in material or moral danger" in the Juvenile Act, with respect to whom the court has to order a protection measure which may consist of the award of custody to persons other than the parents.

329. Lastly, the Filiation Act establishes the principle of the unrestricted investigation of paternity and maternity, which allows for all kinds of evidence, including biological evidence produced by the legal medical service or by a medical laboratory designated by the court. The inclusion of this principle is of great importance, for at present the determination of filiation (except in the case of children born within wedlock) depends on the mere will of the person against whom the application is lodged, i.e. on an admission of paternity or maternity during the proceedings, on express recognition in a public or private legal instrument, or on tacit recognition through the manifest possession of civil status. The situation is similar for mothers in the absence of a birth certificate verifying maternity.

330. This possibility of investigating paternity and maternity is subject to two limitations:

(a) Although an action may be brought at any time during the life of the alleged father or mother, once he or she has died the action may not be brought against his or her heirs except when the unrecognized child is born posthumously or his father or mother dies within 180 days of the birth. These are the only two cases in which the right of investigation does not end at death, although there is a subsequent period during which it may be exercised: three years for the child's legal representative, counted from the date on which he attained full legal capacity;

(b) The search for the biological truth is severely impeded in the event of assisted reproduction, for the new Act provides that the father or mother of a child conceived by methods of assisted reproduction is the man or woman to whom such methods were applied (i.e. the couple) and that filiation established in this way cannot be contested or claimed.

53. Please provide information on the measures adopted to ensure the child's right to acquire a nationality, in particular where the child would otherwise be stateless. Reference should also be made to the implementation of this right in relation to children born out of wedlock, and asylum-seeking and refugee children. Please indicate the criteria applied for the acquisition of nationality and whether the child is allowed to acquire the nationality of both parents.

331. Nationality is a right established in article 10 of the Constitution for:

(a) Persons born in Chilean territory, with certain exceptions;

(b) Children born abroad to a Chilean father or mother when either is in the service of the Republic;

(c) Children born abroad to a Chilean father or mother, subject to the sole requirement of taking up residence in Chile for more than one year;

(d) Foreigners who obtain a naturalization card in accordance with the law and expressly renounce their former nationality; and

(e) Persons awarded discretionary naturalization by law.

B. Preservation of identity
(Article 8)

54. Please indicate the measures adopted to preserve the child's identity and to prevent any unlawful interference. In the case of the illegal deprivation of some or all of the elements of the child's identity, reports should also indicate the measures adopted to provide appropriate assistance and protection to the child and ensure the speedy re-establishment of his or her identity.

332. As stated in paragraph 72 of the initial report, the preservation of identity is protected by, inter alia, article 17 of the Civil Registry Act, which stipulates that entries may be neither altered nor amended except by virtue of an enforceable judgement of a court. The same Act also specifically identifies those persons who may apply for a new entry or for an amendment to an entry.

333. Moreover, under Chilean legislation the usurpation of another person's name is a punishable offence.

334. In addition, in the particular case of children's homes and care institutions a decree of the Ministry of Justice provides that:

(a) Nationality, name, family relations, personal relations, and direct contacts with both parents must be preserved by regular correspondence and visits;

(b) Children must not suffer arbitrary or illegal interference in their private lives or correspondence or unlawful attacks on their honour or reputation.

C. Freedom of expression
(Article 13)

55. Please provide information on the measures adopted to ensure the child's right to freedom of expression, including to seek, receive and impart information and ideas regardless of frontiers. Reports should also indicate the restrictions to which the exercise of this right may be subject.

335. Article 19.12 of the Constitution guarantees all Chileans, including children, the right to free expression of their opinions without any prior censorship.

336. Moreover, in the particular case of children's homes and care institutions a decree of the Ministry of Justice provides that children:

(a) May freely express their opinions, which must be taken into account in the light of their age and maturity;

(b) May have access to information, especially information designed to enhance their social, spiritual and moral well-being and their physical and mental health. Account must be taken of the language needs of children belonging to minority groups.

337. Attention must be drawn in connection with this right to the initiative of the Chamber of Deputies in deciding to convene the first Youth Parliament as a way of making contact with young people and providing them with a space for participation and expression, as well as encouraging them to take an interest in public affairs, especially in those connected with the Legislature.

338. On 13 August 1997, by a decision of its Committee on Internal Affairs, Administration and Regulations, the Chamber of Deputies agreed to establish links with the chairmen of the students' centres in secondary schools throughout the country.

339. The members of the first Youth Parliament were elected on 29, 30 and 31 October 1997. Four representatives (two titular and two deputy) were chosen from each of the 60 electoral districts by a secret ballot of their schoolfellows. It was decided that these young parliamentarians would serve for a term of one calendar year.

340. The first of the two sessions scheduled for the year was held on 7 and 8 January 1998 and the second on 28 and 29 September.

341. The delegates to the second Youth Parliament were elected on 30 November 1998; its first session was scheduled for 8 and 9 January 1999 and was attended by 120 young people. The second session was scheduled for July 1999.

342. The aims of this initiative are to offer young people a space for participation in and an encounter with the world of politics, to introduce secondary students to the legislative work of deputies, to make members of the Youth Parliament more aware of Chile's democratic process, and to prevent any widening of the growing gap between politics and the people, especially young people.

343. The Youth Parliament has proved a success and has offered young people an opportunity to debate the various problems with which they are concerned, such as the reform of secondary education and the removal of the existing inequalities in the education system, and youth participation, including in matters connected with the rights and duties of students and with the opportunities available to graduates from secondary education. The next session will discuss such

topics as young people's values, the new scenarios of communication, mental health, the fresh inputs and impacts of the technological world, and sex and education.

344. The resolutions adopted are reviewed by the Chamber of Deputies and then transmitted to the relevant governmental authorities, where they are studied in order to determine their viability.

345. The officers of the Youth Parliament carry out a number of activities during the year in order to follow up the resolutions adopted at the sessions; they also take part in various discussion forums.

D. Freedom of thought, conscience and religion (Article 14)

56. Please provide information on the exercise of the right to freedom of thought, conscience and religion by children, and the extent to which the child's evolving capacities are taken into consideration.

346. Article 19.6 of the Constitution provides that all persons shall enjoy the freedom of conscience and expression and the freedom of all beliefs and to profess any faith which does not impair morality, good habits or the public order.

347. In the case of children's homes and care institutions the Ministry of Justice has established by decree that children:

(a) Possess the freedom of thought and conscience;

(b) Possess the freedom to profess their own religion or belief and to express themselves in their own language.

57. Please indicate the measures adopted to ensure the child's freedom to manifest his or her religion or beliefs, including with regard to minorities or indigenous groups. Information should also be provided on measures to ensure respect for the child's rights in relation to any religious teaching in public schools or institutions, as well as on any limitations to which this freedom may be subject.

348. Please refer to paragraphs 346 and 347 above.

E. Freedom of association and peaceful assembly (Article 15)

58. Please indicate the measures adopted to ensure the child's right to freedom of association and peaceful assembly, including any specific legislation enacted to establish the conditions under which children are allowed to create or join associations. Please also indicate any restriction that may be placed on the exercise of these rights. Information should also be provided on existing children's associations and the role they play in the promotion of children's rights.

349. Article 19.13 of the Constitution establishes the right of all persons to meet in public assembly. The freedom of association is established in article 19.15. However, children suffer a restriction on their right of lawful association because the law does not accord them the capacity to perform civil acts until the age of 18. But in 1990 the Ministry of Education issued a regulation allowing secondary students to associate freely in the students' centres and other student organizations recognized by the State.

F. Protection of privacy
(Article 16)

59. Please indicate the measures adopted to prevent any arbitrary or unlawful interference with the child's privacy, family, home or correspondence, as well as any attack on his or her honour and reputation. Please provide information on the protection provided by the law against such interference or attacks, and the remedies made available to the child. Information should also be provided on specific measures adopted for children placed in institutions for treatment, care or protection, including in judicial or administrative proceedings.

350. The Constitution contains various rules which constitute the fundamental right of children to live in their families and the right of family members to privacy and security. It also establishes the obligation of the State to respect such rights, stipulating that their restriction is permissible only in the cases and pursuant to the procedures previously established by law and subject to the safeguards of due process, and that such restriction may not affect the rights in their essence. These rules include:

(a) Article 1, which recognizes the family as "the fundamental nucleus of society" and establishes the obligation of the State to protect the family and "promote its consolidation";

(b) Article 19.4, which imposes on the State the obligation to respect and protect the right of the family to privacy and dignity. This means that, although the Constitution does not explicitly recognize a child's right to be cared for by his parents, it does so implicitly by regarding the family as "the fundamental nucleus of society", establishing the right and the duty of parents to raise their children and imposing on the State the obligation of protecting the family and guaranteeing parents the free exercise of this right;

(c) Article 19.7, which safeguards the right to personal liberty and the individual security of all persons. Subparagraph (a) states: "Everyone has the right to reside and stay in any place in the Republic, to move from one place to another, and to leave and enter its territory, provided that the rules established by law are observed and no harm is done to other persons". Subparagraph (b) goes on to state that "nobody may be deprived of his personal liberty or suffer any restriction thereof except in the cases and in the manner determined by the Constitution and the law".

(d) Article 19.3, which accords to all persons "equal protection in the exercise of their rights", recognizing the right to professional legal defence and the safeguards of due process, and affirming the principle of nullum crimen sine lege.

351. It can be inferred from a reading of these provisions that, since all protection measures, and especially those involving an interruption of family relations, entail a violation or at least a restriction of these constitutional rights of children and their parents, such measures may be taken only in the cases and circumstances specified by law, in accordance with a previously established procedure and subject to due safeguards.

352. There follows a description of the constitutional provisions which constitute and affirm the right and duty of the State to protect the individual and the purposes which the State must pursue in the exercise of this right and duty.

353. Article 1 states: "The State is in the service of the human person and its purpose is to promote the common good, to which end it must help to create the social conditions to enable each and every one of the members of the national community to achieve his or her highest possible level of spiritual and material development".

354. This provision is particularly relevant to the topic under discussion. It means that any action taken by the State to "protect" children must promote the common good and at the same time guarantee to children the social conditions to enable them to achieve their maximum spiritual and material development. This article reinforces the idea of the family as the means of ensuring children's development, for it is in the family that children achieve their maximum level of spiritual and material development.[10]

355. This same article obliges the State to "safeguard the right of persons to participate in the life of the nation on the basis of equality of opportunities".

356. This provision is important for the legal definition of the child because it implies that the legal system must overcome the differences inherent in children born in reduced circumstances or in children who, for reasons beyond their control, find themselves in such circumstances.[11]

357. The next two articles impose on the State the obligation to respect and promote the rights recognized in the Constitution (without affecting their essence) and, as a part of the Constitution, the rights recognized in other international human rights texts:

(a) Article 19.26 ensures for all persons that the rules which regulate or supplement by constitutional mandate the guarantees established in the Constitution, or which limit them in the cases authorized by the Constitution, shall not affect their rights in their essence or impose conditions, commitments or requirements that impede the free exercise of these rights;

(b) Article 5.2 supplements the preceding article and recognizes as a limit on the exercise of sovereignty "respect for the essential rights which emanate from human nature", as well as imposing on the State the obligation "to respect and promote such rights guaranteed by this Constitution and by the international treaties ratified by Chile which are in force".

358. In the case of children housed in institutions, in article 2 of Decree n°730, which regulates the operation of children's homes and care institutions, the Ministry of Justice stipulates that such children must not suffer any arbitrary or illegal interference in their private lives or correspondence or unlawful attacks on their honour or reputation.

G. Access to appropriate information
(Article 17)

60. Please provide information on the measures adopted to ensure that children have access from a diversity of national and international sources to information and material aimed at the promotion of the child's social, spiritual and moral well-being and physical and mental health. Please also indicate the measures adopted to encourage:

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[10] Miguel Cillero, "Evolución historica de la consideración jurídica de la infancia y adolescencia en Chile" in Seminario, El Estado y los niños mirando en el tercer milenio, August 1993, p. 71.

[11] Ibid.

- **The production and dissemination of children's books, and the dissemination by the mass media of information and material of social and cultural benefit to the child, with particular regard to the linguistic needs of children belonging to a minority group or who are indigenous;**

359. On 10 July 1993 the Ministry of Education created in its Division of Culture a national fund for the promotion of books and reading. The fund's purpose is to make a substantial improvement in the attitude of Chile's population to reading, facilitate access to books and develop the nation's literature and its publishing industry.

360. The actions undertaken by the fund related to the topic under discussion include: the distribution to public libraries of 25,000 books by Chilean authors between 1994 and 1997; the purchase of 119,539 copies of books (1,899 titles) by Chilean authors; the implementation of various programmes to encourage reading, in which writers, librarians and teachers participated as monitors; and the holding of a biannual children's writing competition designed to encourage creativity and the dissemination of literature for children.

- **International cooperation in the production, exchange and dissemination of such information and material of social and cultural benefit for the child, in accordance with the spirit of article 29 of the Convention on the aims of education, including any international agreements concluded for that purpose;**

361. No information.

- **The development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, as well as from harmful exposure in the mass media.**

362. In September 1989 the adoption of Act n°18,838 created the National Television Council, whose purpose is to ensure the correct functioning of the television services, both the open-reception channels and those of limited coverage and access. The Council is responsible for supervision and control of the content of broadcasts on these channels.

363. The Act establishing the Council stipulates that "correct functioning" means "... permanent respect through their programming for the moral and cultural values of the nation, personal dignity, protection of the family, pluralism, democracy, peace, environmental protection, and the spiritual and mental development of children and young people within this system of values".

364. It must be pointed out that this Act has undergone a number of amendments since the installation of coalition government in 1990.

365. The Council has issued a series of regulations pursuant to its constituent Act:

(a) The television services are prohibited from transmitting any kind of programme containing excessive violence, cruelty or pornography or portraying children in acts at variance with morals or good habits;

(b) Films listed as exclusively for over-18s by the Cinematographic Classification Board may be broadcast by the television services only between 10 p.m. and 6 a.m. Trailers or synopses of such films, if broadcast before 10 p.m., may not show pictures or use language unsuitable for children. Warnings must also be screened for programmes transmitted after 10 p.m. which are unsuitable for children;

(c) Tobacco and alcoholic beverages may be advertised on television only between 10 p.m. and 6 a.m.

366. Lastly, the Act establishes a series of sanctions which may be imposed on television services which infringe the regulations contained in the Act or those adopted by the Council. These sanctions range from warnings to suspension of broadcasting rights.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment
(Article 37 (a))

61. Please indicate whether torture or other cruel, inhuman or degrading treatment or punishment of children is punished by the criminal law, and whether complaint procedures have been established and remedies made available to the child.

367. The organization of Chile's legislation with respect to the punishment of this kind of conduct is described below.

368. Criminal sanctions are available when the conduct constituting the maltreatment falls within one of the categories of crime established in the Criminal Code. The characterization of the crime is the same for all victims, regardless of age.

369. The main categories are homicide and special types of homicide (aggravated homicide, infanticide and parricide) covered by article 390 and subsequent articles of the Criminal Code. Attention is drawn to the category of infanticide, under which punishment is imposed on a father, mother or legitimate or illegitimate ascendant who kills a son or daughter or other descendant within 48 hours of birth.

370. The punishments range from five years and one day, as the lower limit for infanticide and ordinary homicide, up to the death penalty as the upper limit for parricide.

371. The Code also characterizes the crimes of castration, mutilation, and bodily harm; the latter offence is committed by "an act of striking, beating or maltreating another person";

372. The penalty depends on the seriousness of the injury and ranges from a lower limit of 61 days' imprisonment or internal exile for less serious injury to an upper limit of 15 years' imprisonment for castration.

373. If the conduct constituting child abuse does not qualify as a crime, the abuse is punished simply as child abuse; a distinction is made between abuse in the family and outside the family.

374. The child abuse punishable under Act n°19,325 of 1994 (Family Violence Act), which was published in the Diario Oficial on 27 August 1997, is known as intra-family child abuse.

375. This Act punishes any maltreatment which affects the physical or mental health of a person aged under 18 years when the perpetrator is an ascendant, spouse, common-law spouse, adoptive parent, guardian, or blood relation up to the fourth degree inclusive (brothers and sisters, uncles and aunts, cousins) who has the child in his custody or maintenance and lives under the same roof.

376. Clearly, this definition is so broad that it covers all conduct not constituting a crime but involving physical violence, bodily punishment, injury and maltreatment.

377. The Act expressly covers conduct resulting in slight injury to persons aged under 18 years when the perpetrator is one of the persons mentioned above.

378. The breadth of the concept contained in the Act means that it also covers all forms of mental violence, deliberate humiliation, neglect or exploitation to the extent that such conduct affects the mental health of a child victim.

379. Intra-family child abuse is punishable by one of the following means:

(a) Compulsory attendance at certain treatment or family guidance programmes for a period not exceeding six months;

(b) A fine equivalent to one to 10 times the offender's daily income, which may be commuted to performance of community service with his agreement;

(c) Imprisonment in any of its degrees (from one to 60 days), which may be commuted to performance of community service with the offender's agreement.

380. Lastly, August 1994 also saw the publication of Act n°19,324, which amended the Juvenile Act (n°16,618), establishing penalties for other forms of child abuse not covered by specific laws, known as extra-family child abuse.

381. Following these amendments, the new article 62 of the Juvenile Act punishes abuse resulting from an act or omission damaging the physical or mental health of a minor.

382. Once again, the definition is so broad that it covers all conduct which does not constitute a crime but involves physical violence, bodily punishment, injury and maltreatment not inflicted by persons indicated in Act n°19,325. This section also punishes minor injuries caused by persons not members of the family of the child victim.

383. The breadth of this concept also means that it covers forms of mental violence, deliberate humiliation, neglect or exploitation to the extent that such conduct affects the mental health of the child victim and is caused by persons not members of the child's family.

384. This section thus renders such acts punishable when committed in children's homes or other kinds of public or private institution, such as prisons and schools.

385. Extra-family child abuse may be punished by all or some of the following measures:

(a) Attendance by the perpetrator at therapeutic or family counselling programmes. The Act does not specify a term for this measure, and its duration is determined by the institution which the court deems most suitable, for example the National Service for Women, the National Service for Minors (SENAPE), the diagnosis centres of the Ministry of Education, or the community centres for family mental health;

(b) Performance of work for the community, municipality or municipal corporations in the commune of residence similar or related to the occupation of the offender, at his express request;

(c) A fine equivalent to one to 10 times the offender's daily income.

Please also provide information on:

- **Awareness campaigns launched to prevent torture or other cruel, inhuman or degrading treatment or punishment of children;**

386. Since the creation of the Intersectoral Committee for Prevention of Child Abuse in 1996 a number of measures have been taken to make public opinion more aware of this problem.

387. Attention is drawn in this connection to the campaign for kind treatment of children carried out in May 1997. This campaign was implemented at the national level by the regional committees on prevention of child abuse through the mass communication media (press, television, radio) and notices in public places such the metro, hospitals and shopping centres.

388. This work was supported by the chief representatives of the three powers of the State: the President of the Republic, the President of the Supreme Court, and the Presidents of the Senate and the Chamber of Deputies. Well-known public figures also supported the campaign.

389. Handbooks on raising public awareness and technical publications for professionals in this area were produced for this same purpose.

390. The national campaign for kind treatment of children was carried out during the month of October as part of the Public Communication Plan 1998-200 devised by the Intersectoral Committee; the objectives and strategies are described below.

391. The strategic objective of the Public Communication Plan 1998-2000 is to enhance awareness of the kind treatment of children as an attitude favourable to the development of a culture of respect for the fundamental human rights.

392. General aims for the period 1998-2000:

(a) Recognition of children's right to protection as an individual, family and social responsibility;

(b) Promotion of children's right to participate in the family and society.

393. Specific aims for the period 1998-2000:

(a) To identify the rights of the child contained in the Convention;

(b) To deliver the message that individual behaviour influences and forms part of a system of personal, family and social relations;

(c) To identify alternative ways of bringing up and caring for children designed to satisfy their comprehensive development needs;

(d) To identify everyday attitudes in public life designed to secure respect for and proper care of children and young people;

(e) To underline the importance of listening to and taking into account children's opinions about decisions affecting them;

(f) To promote the creation and active use of spaces for the participation of children and young people in the family and in institutions;

(g) To encourage children and young people to form organizations based on their own interests;

(h) To develop in the various institutions dealing with children (health, education, justice, police, etc.) policies which take account of their peculiar material, emotional, social and cultural needs.

394. Strategies:

(a) Design of audiovisual materials (handbooks, posters, press articles, radio and television spots);

(b) Distribution of audiovisual materials at exhibitions and other public events;

(c) Discussion panels for children with adults and for adults with the communication media in public and private institutions;

(d) Training in the needs of child development and in children's rights for the staff of institutions working with children;

(e) Involvement of public figures in the delivery of messages on the specific aims of the campaign;

(f) Use of the press for publicizing opinions and research on relations based on kind treatment;

(g) Artistic, cultural, leisure and discussion events to promote the various manifestations of kind treatment.

The 1998 publicity campaign

395. The 1998 kind-treatment campaign was an element of the country's democratic development and it therefore had to transmit a positive message about the importance of caring for children properly, valuing them as individuals, and avoiding any stigmatizing of children. In other words, the campaign was intended to produce a change of attitude in persons responsible for the everyday care and upbringing of children in the sense of prompting thought and questioning about how aware people are of the quality of the relations that they establish with the individuals known as children.

396. It is impossible to design a publicity campaign without having a goal of bringing about a change in the target public. Any other approach is tantamount to disregarding the meaning of such campaigns, whatever their subject. Another point is the potential scale of the proposed change, for a true cultural change cannot be achieved by a publicity campaign. Nevertheless, such a campaign can contribute to a questioning of our cultural being.

397. Specific aims for 1998:

(a) To identify the rights of the child contained in the Convention;

(b) To deliver the message that individual behaviour influences and forms part of a system of personal, family and social relations;

(c) To identify alternative ways of caring for and bringing up children designed to satisfy their comprehensive development needs;

(d) To identify everyday attitudes in public life designed to secure respect for and proper care of children and young people.

398. This campaign was carried out in the country's 13 regions and was coordinated by the regional committees for prevention of child abuse.

- **Educative and training activities developed, particularly with personnel in institutions, services and facilities working with and for children, aimed at preventing any form of ill-treatment;**

399. There have been several training courses for the staff of SENAME and its collaborating institutions on topics such as the rights of the child, child development, maltreatment and sexual abuse, and rehabilitation of offenders. For more details, see paragraph 297 above.

400. SENAME has also carried out other measures in this area:

(a) Production of six texts:

- Analysis of Chile's existing legislation on child abuse;
- Public and social policies on children and child abuse;
- Guide to institutional resources for dealing with child abuse;
- Social networks as an intervention model;
- A proposal on care in cases of child abuse;
- Experience of care in cases of child abuse;

(b) Production of four educational booklets:

- Detection of child abuse;
- Strategies for dealing with child abuse;
- Detection of child abuse;
- Strategies for dealing with child abuse.

Each of these booklets was published in 5,000 copies, which were distributed to adults having direct contact with children: elementary teachers, kindergarten staff, and auxiliaries and other front-line personnel of SENAME and its collaborating institutions.

(c) Holding of a seminar attended by international experts on this topic.

401. In addition, the violence and child abuse programme of the Ministry of Justice has a training component for professionals belonging to institutions working with children: staff of educational establishments and parents' centres, municipal employees, etc.

- **Any cases where children have been victims of any such acts; measures adopted to prevent the impunity of perpetrators, including by investigating such cases and punishing those found responsible.**

402. The legislation providing punishment for the physical maltreatment of children has already been indicated under guideline 61. However, there is also an array of protection measures not intended for the punishment of offenders but focused exclusively on the protection of the children involved; these measures are described below.

Protection measures which may be ordered by the juvenile courts in cases involving offences against children

403. The Juvenile Act stipulates that juvenile judges are competent to rule on the future life of a child in a situation of moral or material danger. As already pointed out, the Act also provides that one of the tasks of the Juvenile Police is to pick up any children in irregular situations who require assistance or protection. It stipulates that in such cases the Juvenile Police must notify the reason for their action to the children's parents or guardians and proceed to return them. But if a child has no parents and appears in manifest need of assistance or protection, he is brought before a juvenile judge for a ruling.

404. Accordingly, the Juvenile Police have the option of removing a maltreated child from his home and bringing him before a juvenile judge. And since such a child will usually be in a situation of moral or material danger, the judge may rule on his future life.

405. Pursuant to the Juvenile Act, when a maltreated child appears before him a juvenile judge may decide:

(a) To return the child to his parents or guardians or to other persons in whose custody he was, subject to a warning (art. 29.1);

(b) Place the child on probation (art. 29.2);

(c) Place the child for whatever period is deemed necessary in one of the special education establishments indicated in the Act (art. 29.3);

(d) Place the child in the custody of a suitable person whom the judge regards as capable of attending to his upbringing, where he will live in the family (art. 29.4).

406. The Act also provides that these measures shall be imposed for a period determined by the judge, who may revoke or modify them in the light of the circumstances.

407. As may be seen, juvenile judges have broad powers. Moreover, as a result of the breadth of the terms of article 26 of Act n°16,618 the judicial practice has created protection measures not specified in the Act: for example, supervision by the court's social worker, a measure very commonly used in cases of child abuse.

408. The judge conducts oral proceedings for the application of these measures, without a formal court hearing, but he must be apprized of the facts before making his ruling. Accordingly, from the juridical standpoint the proceedings are neither regulated or discretional.

409. It should be mentioned here that the Act provides that in all cases a juvenile judge must assess the evidence according to equity (ex aequo et bono); if possible, he must always hear an adolescent child, and he may hear a pre-adolescent child if he deems it appropriate. In addition to the reports which he may request from social workers, the judge may call for reports from doctors, psychologists, etc. The article adds that a child does not require a legal representative for an appearance before a juvenile judge.

410. Measures ordered by a juvenile judge may be contested only by the parents or guardians or by a person who actually has the child in his custody. The child in question may not contest such measures. Furthermore, article 30 of the Juvenile Act stipulates that when a child is brought in by the Police on the basis of facts not constituting a crime, ordinary offence or minor offence - for example a victim of child abuse - the juvenile judge may, without summoning the child to appear before him, order one of the measures mentioned in article 29 as best indicated by the irregularity in question.

411. This means that not only does the Act not recognize the child as a legitimate party to the proceedings but also empowers the judge to impose a protection measure on him without even summoning him to appear. The judge must hear an adolescent child "if possible" and a pre-adolescent child "if he deems it appropriate"; accordingly, if the judge decides to order a protection measure for a child "without summoning the child to appear before him" what he is doing is deciding that "it is not possible" or that he "does not deem it appropriate" to hear the child.

412. The second paragraph of article 31 makes the situation even worse by empowering the judge, in specified cases, to authorize the Technical Board of the children's homes to apply the measure in question. This means that the Act empowers the judge not only not to summon the child to appear but also to delegate the application of the measure to a third party.

413. In according these powers the juvenile judges no distinction is made as to the age of the child. The judge may exercise his powers with respect both to a one-year-old and to a child of 16 or 17, for the Act makes no distinction.

414. When it comes contesting a decision of a juvenile judge, article 37 provides that in juvenile cases the only admissible remedies are appeal and complaint proceedings, without prejudice to an application for reconsideration where appropriate. In addition, appeals are admissible only with respect to final decisions and decisions terminating a case or making it impossible for it to continue.

415. Accordingly, at first sight there are three remedies against a decision of a juvenile judge: reconsideration, complaint, and appeal. Applications for reconsideration are treated in general terms and according to the basic principles governing the case; the review and assessment are entrusted to the same juvenile judge, as is, consequently, the decision on reconsideration.

416. According to our interpretation, the admissibility of complaint proceedings is limited by the amendments to the Courts Organization Code introduced by Act n°19,374 of 3 February 1995, which was published in the Diario Oficial on 18 February 1995.

417. Although article 37 of the Juvenile Act admits complaint proceedings "in juvenile cases", article 545 of the Courts Organization Code, as amended by Act n°19,374, states: "The sole purpose of complaint proceedings is to correct serious errors or abuses committed in the handing down of

jurisdictional decisions. Such proceedings shall be admissible only when the error or abuse is committed in an interlocutory judgment terminating the case or making its continuation impossible or in a final decision not subject to any appeal, either ordinary or extraordinary, without prejudice to the power of the Supreme Court to act of its own motion in the exercise of its disciplinary functions".

418. The limitation on the admissibility of complaint proceedings is reaffirmed in article 549 of the Courts Organization Code, also amended by Act n°19,374: once an application for such proceedings has been made, the registry division of the collegiate court establishes whether the decision giving rise to the application is subject to any other remedy. If it is, the application is declared inadmissible without further ado.

419. Thus, the admissibility of complaint proceedings in juvenile cases requires:

(a) That a jurisdictional decision has been made by a juvenile judge;

(b) That in handing down this decision the juvenile judge has committed a serious error or abuse;

(c) That the decision in question is a final decision or an interlocutory decision terminating the case or making its continuation impossible;

(d) That this final or interlocutory decision is not subject to any other remedy, either ordinary or extraordinary.

420. As a result of these rules, the possibility of bringing complaint proceedings against a decision of a juvenile judge is non-existent, for final or interlocutory decisions terminating a case or making its continuation impossible handed down by a juvenile judge are subject to the remedy of appeal, which is an ordinary remedy.

421. And since the remedy of complaint proceedings is inadmissible when an ordinary remedy is available with respect to the same decision and likewise inadmissible against decisions other than final or interlocutory decisions terminating the case or making its continuation impossible, the only possible conclusion is that the remedy of complaint proceedings is not admissible in juvenile cases against any decision.

422. There remains the remedy of appeal which, as already pointed out, is admissible only with respect to final or interlocutory decisions terminating the case or making its continuation impossible.

423. However, this rule is difficult to apply in practice since some juvenile judges order interim protection measures, which may remain in effect for a long time. Thus, some courts have adopted the interpretation that, since the protection measure in question is an interim one, there is no final decision and the case remains pending: the decision has not terminated the case or made its continuation impossible; therefore the decision is not subject to appeal.

424. There is no question of playing down the importance of ordering interim protection measures in good time, for such orders by definition allow the judge, always mindful of the best interests of the child, to revoke or modify a protection measure at any time if the situation affecting the child changes. However, the indefinite maintenance of interim measures and the interpretation which some courts have attached to the juridical nature of such measures limit the possibility of appeal to a higher court.

425. To sum up, in cases of child abuse the juvenile courts have broad powers to rule on the abused child's fate; there are two possibilities here.

426. The first is to deal with a juvenile judge who is diligent and concerned, above all, with the rights of the child. This judge will adopt the most timely and appropriate measures without delay, offering the psycho-social teams every opportunity to do their work, seeking not to remove the child from his family, and listening to and heeding the opinions of the child and his family.

427. Since many of the country's towns do not have specialized juvenile courts and juvenile cases are heard by the ordinary courts, the second possibility is that these courts will try to deal with juvenile matters rapidly and easily by separating the child from his family, thus complicating the work of the psycho-social teams and institutionalizing and inflicting a further stigma on the child victim.

Precautionary measures under Act n°19,325 (Family Violence Act)

428. From the very moment of the receipt of a complaint or application a judge dealing with a case of child abuse in the family under the provisions of Act n°19,325 may, on application or of his own motion, order any kind of precautionary measure to ensure the child's mental or physical safety, as well as the peaceful coexistence, economic survival and integrity of the property of the nuclear family. These measures include:

(a) Prohibiting, restricting or limiting the presence of the offender in the common household;

(b) Ordering the return to the household of anyone who has been obliged to leave it without justification;

(c) Authorizing the person concerned to leave the common household and ordering the immediate surrender of his or her personal effects;

(d) Prohibiting or limiting the offender's attendance at the victim's place of work, unless both work in the same establishment;

(e) Setting maintenance on a provisional basis and ordering arrangements for the personal care, upbringing and education of minor members of the nuclear family;

(f) Prohibiting the conclusion of transactions or contracts relating to certain property of the members of the family nucleus.

429. These measures are essentially provisional and may be revoked, expanded, modified or limited at any time.

430. The provisional nature of precautionary measures is also evident in the limitation on the competence of the civil courts to rule on such measures once judicial proceedings directly connected with the matters covered by the measures have commenced. This would happen, for example, in the case of a precautionary ruling on provisional maintenance by a civil court once maintenance proceedings had commenced before the competent juvenile court. However, some measures may coexist with any parallel legal action (for example, measures limiting the offender's access to the common household), for although such measures have an effect on the arrangements for the child's care the juvenile courts are not competent to limit an adult's right of free movement in the manner indicated since their measures may be applied only to children.

431. The judge may call upon the assistance of the forces of law and order for the enforcement of these measures and order powers of entry and search, as well as imposing fines not exceeding one monthly tax unit or detention for up to two months, with the possibility of reimposing the penalty.

432. The duration of these measures may not normally exceed 60 working days but they may be extended up to 180 working days on very serious or urgent grounds.

433. The judge may order the continuation of the measures for a further period of up to 60 days in the final decision. However, if in the meantime an action is begun for child guardianship or custody, for a final maintenance order, or for divorce or separation of property, the court in question has to rule on any precautionary measures in effect at the time of the commencement of such an action which are directly related thereto.

434. Failure to comply with a precautionary measure is punishable by medium-term ordinary imprisonment in its medium to maximum degrees, i.e. from 541 days' to five years' imprisonment.

Measures which may be ordered by the criminal courts

435. Two types of measure may be ordered by the criminal courts in order to protect a child victim of a crime.

436. Firstly, the court may order any protection measure pursuant to the powers conferred by article 7 of the Code of Criminal Procedure, which states that the court shall consider preliminary steps, including "the protection of the injured parties". Given these broad powers, the criminal courts have virtually unrestricted means of protecting a victim.

437. In addition, article 7 of Act n°19,325 states explicitly that the criminal courts may order the same precautionary measures, for the same periods and in the same form, as the civil courts, provided that the offence in question satisfies the requirements for being treated as an act of intra-family violence.

438. It is understood that the criminal courts may order precautionary measures on the same terms as in cases of intra-family violence, i.e. measures of an essentially temporary nature with a maximum duration of 180 working days, subject to the court's lack of competence to rule on such measures once an action directly connected with the same case is commenced.

439. However, in the case of offences constituting extra-family abuse (for example, a child seriously injured by a neighbour) the criminal courts are not competent to order precautionary measures under Act n°19,325.

- **Measures adopted to ensure the physical and psychological recovery and reintegration of children who have been tortured or otherwise ill-treated;**

440. SENAME has established a procedure for specialist intervention in cases of child abuse and sexual abuse.

441. This work is done at its National Office under the programme for care and intervention in cases of child abuse, which has been in operation since 1993. From that year until August 1995 the programme was concerned basically with providing legal services and socio-therapeutic care for victims of child abuse, which meant expanding the professional staff of SENAME.

442. Since August 1995 SENAME has channelled its work in cases of child abuse through its collaborating institutions since it lacks the power to create and administer protection establishments directly, a matter requiring the express authorization of the Ministry of Justice; this legal impediment prevents SENAME from implementing its own projects in the area of child abuse.

443. Given this situation, the programme for care and intervention in cases of child abuse made an analysis of its experience, completing this work in January 1996. In the light of this analysis it sought to define the bases for passing its accumulated experience on to the collaborating institutions; this resulted in June 1996 in a first document entitled "The National Service for Minors and child abuse: a proposal for action".

444. It also called in consultants to determine the potential country-wide demand for the implementation of projects for intervention in cases of child abuse.

445. In addition, the programme developed four specific SENAME-funded projects for specialized intervention in cases of child abuse and sexual abuse in the cities of Santiago, Viña de Mar and Concepción.

446. It is thus apparent that SENAME has given priority to the implementation of projects to make good the damage suffered by victims of child abuse and/or serious sexual abuse; these are open projects, i.e. they do not link the care for the child victim to placement in a shelter or a specialized institution. The specialized institutions carry out interdisciplinary and integrated activities designed to cope in one and the same place with most of the problems affecting the child by means of treatment by professional care workers and psychologists and the services of lawyers. However, emphasis is given to therapeutic care of the child, with both the child and his family regarded as beneficiaries.

447. It is hoped that the coverage of this kind of project will be increased over the next few years, but this will depend on the resources allocated to SENAME each year in the national budget.

448. At present SENAME and its collaborating institutions are implementing a set of psycho-social projects for the prevention and treatment of serious and minor child abuse:

(a) Five regional outpatient projects: three in the metropolitan region, one in region V, and one in region VIII;

(b) Four projects for support in child-abuse cases in 1998: three in the metropolitan region and one in region III;

(c) Four projects for treatment of serious child abuse in 1997: two in the metropolitan region and the others in regions II and XI;

(d) Four projects for the treatment of serious child abuse in 1998: metropolitan region and regions V, IX and X.

449. Where legal assistance is concerned, SENAME has lawyers in each of its regional offices to undertake the legal representation of children and young people in criminal and protection matters. These professionals also monitor the criminal actions originally brought under the SENAME pilot project.

450. Apart from the objectives already mentioned, the work in this area is also intended to correct the psychological and social effects on children and young people victims of serious or minor child

abuse, to provide legal representation for victims of criminal abuse, and to strengthen the family in the protection, care and upbringing of its children.

451. In the period 1998-2000 SENAME was to have carried out the following measures:

(a) To produce by the end of 1998 general guidelines on intervention in cases of serious and minor child abuse;

(b) To establish by the end of 1999 a project for the treatment of serious child abuse in every region of the country;

(c) To establish by the end of 1999 a system for the treatment of child abuse, including projects on serious and minor abuse;

(d) To produce by the end of 1999 a framework of technical guidelines on prevention of and intervention in cases of child abuse;

(e) To provide training in 1998 for the lawyers of the regional SENAME offices recruited to work on child-abuse cases;

(f) To provide training in 1999 for the professionals of the directly administered intra-institutional SENAME centres for abuse prevention.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (articles. 5; 18,paras. 1-2; 9-11; 19-21; 25; 27, para. 4; and 39)

A. Parental guidance (article 5)

62. Please provide information on family structures within the society and indicate the measures adopted to ensure respect for the responsibilities, rights and duties of parents or where applicable the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide appropriate direction and guidance to the child, further indicating how such direction and guidance are consistent with the child's evolving capacities.

452. "The 1992 population census counted 3,293,779 individual households,[12] 2,819,606 of which consisted of groups containing a primary family nucleus.[13] This means that 85.6% of the households recorded consisted of a family[14] of some kind. The rest were single-person households (8.3% of the total) and `households without a family nucleus'. The latter do not include a primary family nucleus

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[12] An individual household is "a group of two or more persons who, whether or not related to each other, have economic independence, i.e. they participate in the formation and use of the same budget, share food and live in the same dwelling or part of a dwelling. An individual household may consist of a single person". National Institute of Statistics, 1992, National Population and Housing Census.

[13] Primary family nucleus includes "the head of the household, his or her spouse or common-law spouse and the children and stepchildren of the head of the household, whatever their civil status, provided that their respective spouses or common-law spouses are not present". "The families of Chile according to the latest population census (1992), SERNAM, document n°44, June 1996, p. 12.

[14] A family is "a group of two or more persons making up a single individual household related up to the fourth degree of consanguinity (parents, children, grandparents, grandchildren, brothers and sisters, uncles and aunts, nephews and nieces, and cousins) and up to the second degree of affinity (spouses, parents-in-law, sons- and daughters-in-law, stepchildren, and brothers- and sisters-in-law)". Op. cit.

(father and/or mother, children) but they may contain persons with some other family relationship and/or persons without a family relationship with the head of the household".[15]

453. These results point to the conclusion that 91.6% of the persons counted in the census for the whole country were living in families containing a primary nucleus; it may therefore be asserted that most members of the country's population live in a family group. The remainder live in collective households.[16]

454. This heterogeneity of family types is a characteristic of Chilean society (see table 1), but the predominant type is the two-parent family nucleus with inactive children and wife (33.2%). This type is followed by the extended two-parent family, where again the wife is inactive. Third place, for the whole country, is occupied by three types of household with virtually the same percentage weight: the single-parent family nucleus (mostly headed by women); the two-parent family nucleus with inactive wife; and the single-person household, which increased rapidly in number in the period 1982-1992.

455. In all the regions of the country the commonest type of household is the two-parent family nucleus with inactive wife.

Table 1
Types of household and family (% of total households)

Type of household and family	%
Single-person household	8.1
Nuclear family with children and active wife	8.4
Nuclear family with children and inactive wife	33.2
Nuclear family without children (childless couple)	7.7
Single-parent nuclear family (single father or mother with children)	8.8
Extended two-parent family with active wife	2.9
Extended two-parent family with inactive wife	13.5
Extended single-parent family	7.2
Composite family*	4.1
Household without a family nucleus	6.1
Total households (3,293,779)	100.00

Source: "Characteristics and analysis of Chilean families on the basis of the data of the latest Population and Housing Census 1992", SERNAM, 1995.

* Consisting of a nuclear family or an extended family plus one non-relative.

456. Attention may be drawn to the following measures designed to ensure respect for the responsibilities, rights and duties of parents or, where applicable, of the members of the extended family or of the community:

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[15] Op. cit., p. 19.

[16] A collective household is "a group of persons having no family relationship who share a dwelling or a part of a dwelling and make a common life together for reasons of health, work, religion, study, discipline, etc.". Op. cit., p.18.

(a) Approval of the Filiation Act by the Congress in September 1998;

(b) Enactment of the Family Violence Act (nº 19,325), which was published on 27 August 1995;

(c) Adoption of Act nº19,250 amending the regulations on individual labour contracts. This Act was published on 30 September 1993. It provides inter alia for authorization of postnatal leave for working fathers and mothers, at the mother's choice, in the event of the serious illness of a child aged under one year. This authorization includes permission not to go to work and the payment of a benefit equivalent to full wages with some deductions. If the mother dies, the authorization passes in full to the father. It is also granted on these same terms to a working man or woman, or to his or her spouse, who has been legally awarded the guardianship or personal custody of a child aged under one;

(d) Adoption of the Sunday Holiday Act (nº 19,482). This Act, published on 3 December 1996, provides that workers in commerce or services who cater directly to the public and were excluded from the scope of the Sunday holiday provisions of the Labour Code are entitled to at least one rest day on a Sunday per calendar month, in order to facilitate the development of family life among this class of worker;

(e) Adoption of Act nº 19,505 granting special leave of absence for workers in the event of the serious illness of their children. This Act, published on 25 July 1997, provides for absence from work for up to 10 days per calendar year by a working mother (or the father if both parents work and the mother elects that he is to exercise this right or if she is absent for some reason) in the event that the health of a child aged under 18 years requires the personal attention of the parents as a result of a serious accident, a terminal illness in its final stage, or a serious illness involving the probable risk of death. The same benefit is accorded to persons having custody of a child aged under 18 who is in one of these situations. The Act envisages various forms of compensation for the unworked days, which must be established by common accord between the worker and the employer.

63. Please indicate any family counselling services or parental education programmes available, as well as awareness campaigns for parents and children on the rights of the child within family life, and training activities provided to relevant professional groups (for example, social workers) and indicate if any evaluation has been made of their effectiveness.

457. Attention is drawn on this point to the work of the Family Foundation, a private non-profit institution operating country-wide, which was established in 1990; its president is the First Lady of the Republic.

458. The Family Foundation functions through a network of 13 family centres operating as community homes in seven of the country's regions; they have a basic infrastructure for carrying out individual, group and mass activities. Ever since their creation they have been implementing a number of programmes and other measures aimed at the family. In 1997, for example, the following programmes were in operation:

(a) Family information and counselling: the general objective is to provide information and counselling for poor families concerning their needs and problems and any benefits which they may claim; the centres provide referrals and introductions to other institutions if necessary;

(b) Family training: the general objective is to offer the families in the centres' target population instruction that will enhance family life by facilitating and promoting personal and collective development and integration;

(c) Family leisure and integration: the purpose is to create spaces for meeting and participation which facilitate the integration of the members of the family with each other and with the community. Leisure opportunities are also provided for poor families in the shape of recreational, sporting and cultural activities. This programme has three subprogrammes: family leisure, family sports, and summer in the family.

459. As pointed out under guideline 36, the collaborating institutions of the National Service for Minors (SENAME) must concern themselves with the social integration of children and young people; particular attention is given to work with the family in the form of programmes to improve the performance of the parental role. SENAME contributes to these activities as far as it can by furnishing project-support funds to back up the professional teams of the collaborating institutions.

460. The effectiveness of this work has been measured up till now by the indicator of successful separation from the network, which has shown a positive trend over recent years. However, it must be stressed that more systematic action will have to be sustained over time and provided with adequate resources and monitoring arrangements if the effectiveness of the work is to be evaluated more reliably.

461. As mentioned under guideline 39, the personnel of the institutions collaborating with SENAME receive training in various subjects. In addition, professionals working with or providing services for children, such as teachers, psychologists, social workers, doctors, etc., take child-development courses as part of their vocational training.

462. It must also be pointed out that the school system attaches importance to schools for parents, designed to provide theoretical instruction in child development.

64. Information should also be provided on the measures adopted to ensure respect for the principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible, as well as on the progress achieved in the implementation of article 5, any difficulties encountered and the indicators used.

463. A picture is offered throughout this report of the various measures adopted by the State in order to ensure respect for the principles of the Convention (see chapter III).

464. As can be seen from previous sections, progress has been achieved in the implementation of article 5. Most of this progress has taken the form of the enactment of legislation, such as the adoption of the Filiation Act, the amendment of the Individual Labour Contracts Act, and the adoption of the Act granting special leave to workers in the event of the serious illness of their children.

B. Parental responsibilities
(article 18, paras. 1-2)

65. Please provide information on the consideration given by law to parental responsibility, including the recognition of the common responsibilities of both parents in the upbringing and development of the child and, that the best interests of the child will be their basic concern. Also indicate how the principles of non-discrimination, respect for

the views of the child and the development of the child to the maximum extent, as provided for by the Convention, are taken into account.

465. In the case of a couple married under the joint property regime, both spouses are responsible, in the language of article 1,740, paragraph 5, of the Civil Code, for the "maintenance, upbringing and development of their common descendants".

466. In the case of a couple married under the separation of property regime, article 16 of the Civil Code states that "both spouses must provide for the needs of their common family to the extent of their capacity"; it is for the courts to set the contributions if necessary.

467. But article 228 of the Code states that "if the wife is subject to separation of property, such expenditure shall be the responsibility of the husband, with the wife contributing in the proportion set by the court".

468. The economic contribution aspects (art. 160) of the principle of joint parental responsibility for the upbringing and development of the children are qualified by the provisions of article 228 and article 1,740, paragraph 5, which tend to place a heavier burden on the father than on the mother. In the first instance this is stated explicitly, and the mother's contribution is apparently relegated to second place. In the second instance the responsibility rests with the couple, but the proceeds of employment exercised by the wife separately from her husband do not form part of the joint property of the marriage until its eventual dissolution and provided that the wife does not renounce her share of the gains of the marriage.

469. These arguments are somewhat theoretical in most cases. But the problem does not arise in these terms in the case of women who do not work. And for women who do work, whether or not subject to separation of property, Chile's social and cultural reality shows that the lack of an economic contribution by the mother is not a genuine problem. Lastly, the provision of article 228 is justified by the fact that a woman's employment is usually less well remunerated than that of her husband, not to mention the contribution - impossible to evaluate but without doubt having an economic impact - of the wife in the performance of domestic tasks, mostly the work of women in Chilean culture.

470. In fact, the principle of the joint responsibility of the parents for the upbringing and development of their children is under greater threat in the event of the parents' de facto separation, when usually, and in accordance with the legislation, the children are placed in the mother's custody.

471. The substantive and procedural regulations on maintenance, in particular Act n° 14,908 establishing the definitive text of the Act on abandonment of the family and payment of maintenance, contain important provisions which, in general terms, have an impact on the effectiveness of the system for collection of maintenance payments. These provisions cover interim maintenance orders, the special jurisdiction of the juvenile courts, the relative brevity of the proceedings, the presumption of the economic capacity of the father or mother to provide the necessary maintenance for their children, the withholding by court order of a percentage or amount of the remuneration of the party paying the maintenance, the possibility of imposition of enforcement orders, etc. Natural children are entitled to contributions by their father and mother to the costs of their upbringing and education in the same way as in the case of legitimate but separated or divorced parents or parents whose marriage has been annulled. However, it is necessary in such cases for the natural filiation to be legally established, and this, as already pointed out, is extremely difficult to achieve against the will of the parents.

472. Even when the filiation of a simply illegitimate child is legally established, the law stipulates only a right to necessary maintenance, i.e. the essential elements of subsistence. But the whole situation described here will be changed following the entry into force of the Filiation Act in October 1999.

66. Please provide information on the measures adopted to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, as well as on the institutions, facilities and services developed for the care of children.

473. Chile has various public institutions and services providing care for children, including: the National Kindergarten Board and the INTEGRA Foundation, both of which run pre-school care and education programmes; the National School Support and Scholarships Board, which provides assistance with maintenance, accommodation and health care for poor children to enable them to attend school; and SENAME, which works with children whose rights have been infringed.[17]

Information should also be provided on specific measures adopted for children from single-parent families and belonging to the most disadvantaged groups, including those living in extreme poverty.

474. Since 1991 the National Service for Women (SERNAM) has been operating a programme of support for women heads of poor single-parent households. The second phase of this programme's implementation began in 1998. The main aim is to "boost the economic capacity of women heads of household, improve the quality of life of the members of the household, and make progress towards overcoming the discrimination to which they are subjected". To this end, emphasis has been given to encouraging the employment and enhancing the working conditions of the participants by upgrading their skills through education for work and vocational training. In addition, a number of measures have been adopted to tackle the main barriers to the employment of these people by establishing networks of child-care institutions and promoting access to health services and other benefits in the areas of housing, legal assistance, and education.[18]

475. Help was given to 18,000 women between 1991 and 1998. It is hoped that the programme's second phase will benefit 50,000 women living below the poverty line in the period 1998-2001.

476. The Government also provides a number of cash subsidies, i.e. cash transfers to extremely poor groups:

(a) The single benefit for children, which consists of economic assistance from the State for poor mothers, fathers or guardians having custody of children aged up to 18 years;

(b) The single benefit for mothers, a cash subsidy from the State for poor pregnant women;

(c) The single benefit for new-born children, a cash subsidy from the State for recipients of the mother's benefit following the birth of a child.

67. Relevant disaggregated information (for example, by gender, age, region, rural/urban areas and social and ethnic origin) should be given on children having benefited from any of these measures and resources allocated to them (at the national, regional and local

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[17] The activities of these institutions are described in various parts of the report.

[18] Mimeographed document "Programme of support for women heads of poor households, second phase", SERNAM, December 1997.

levels, and where appropriate at the federal and provincial levels). Information should also be provided on progress achieved and difficulties encountered in the implementation of article 18, as well as on the targets set for the future.

477. In 1997 851,854 persons received one of the three forms of the single benefit; the total budgetary expenditure was 29,697,990 pesos.[19]

478. See also paragraphs 465 to 476 above.

C. Separation from parents (article 9)

68. Please indicate the measures adopted, including of a legislative and judicial nature, to ensure that the child is not separated from his or her parents except when such separation is necessary for the best interests of the child, as in cases of abuse or neglect of the child or when the parents live separately and a decision must be made as to the child's place of residence. Please identify the competent authorities intervening in these decisions, the applicable law and procedure and the role of judicial review.

479. As noted earlier, for SENAME the separation of a child from his parents by placement in an institution is a measure of last resort used only when there is no other care option. SENAME has therefore tried to give preference to non-institutional care arrangements.

480. It must be pointed out that the only authority having competence to order a measure separating a child from his parents is the courts, acting in accordance with the procedure established in the Juvenile Act.

69. Please provide information on the measures taken pursuant to article 9, paragraph 2 to ensure to all interested parties, including the child, an opportunity to participate in any proceedings and to make their views known.

481. The earlier legislation remains in force without amendment. See the initial report.

70. Please indicate the measures adopted, including of a legislative, judicial and administrative nature, to ensure that the child who is separated from one or both parents has the right to maintain personal relations and direct contacts with both parents on a regular basis, except if it is contrary to the best interests of the child. Please further indicate the extent to which the views of the child are taken into consideration in this regard.

482. If a child is separated from his parents and if there is a disagreement between the parents, it is for a juvenile judge to regulate the visiting rights of the parent who does not have custody.

483. The collaborating institutions of SENAME are required to allow and facilitate contacts between children and their parents unless there is a judicial order to the contrary. This led to changes in the existing rules governing the payment of the SENAME subsidy, which permitted only four monthly exeats, usually used by children to visit their families. Children may now visit their families as often as necessary and may remain with them for prolonged periods in order to grow closer to them or in preparation for permanent return, without this reducing the subsidy received by the collaborating institution.

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[19] Source: Department of Social Information, MIDEPLAN.

484. Children are also entitled to be visited by their families in the institution where they are being cared for.

485. Here again, the aim of the SENAME systems is social reintegration, with priority given to rejoining the family; the work is proving successful, for 90% of the children taken into care return to their original families.

71. Please indicate the measures adopted pursuant to article 9, paragraph 4 to ensure that in the case of the child's separation from one or both of his or her parents as a result of any action initiated by the State, essential information on the whereabouts of the absent member(s) of the family is provided, upon request, to the child, to the parents or, if appropriate, to another member of the family, unless the provision of the information would be detrimental to the well-being of the child. Also indicate the measures undertaken to ensure that the submission of such a request entails no adverse consequences for the person(s) concerned.

486. The SENAME central information system provides all necessary information to the parents on the whereabouts of a child in the care network once it has been established that there is no objection to the provision of this information on the part of the relevant care institution or regional office.

72. Relevant disaggregated information (for example, by age, gender and national, ethnic and social origin) should be provided inter alia in relation to situations of detention, imprisonment, exile, deportation or death, together with an assessment of progress achieved in the implementation of article 9, difficulties encountered and targets set for the future.

487. See paragraphs 478 to 486 above.

D. Family reunification
(article 10)

73. Please provide information on the measures adopted to ensure that applications by a child or his or her parents to enter or leave a country for the purpose of family reunification are dealt with by the State in a positive, humane and expeditious manner and that the submission of such a request entails no adverse consequences for the applicants and the members of their family.

488. There are no specific regulations on this point. The only relevant regulations refer to the departure of minors from Chile, which is subject to the provisions of the Adoptions Act and article 49 of the Juvenile Act.

74. Please also indicate how such applications are considered in the light of the Convention and in particular of its general principles of non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible, including in the case of unaccompanied and asylum seeking children. Disaggregated information should also be provided, including by gender, age, and national and ethnic origin.

489. See paragraph 488 above.

75. Please indicate the measures undertaken to ensure the right of a child whose parents reside in different States to maintain on a regular basis personal relations and direct contacts with both parents. Please also indicate any exceptions and their compatibility with the provisions and principles of the Convention.

490. This matter is subject to the visiting arrangements decided by the juvenile judge, who bears in mind the best interests of the child in all cases.

76. Information should be provided on the steps taken to ensure respect for the right of the child and his or her parents to leave any country, including their own, and to enter their own country. They should indicate any restrictions imposed on the right to leave the country, how they are prescribed by law, necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and the extent to which they are consistent with the other rights recognized in the Convention, including the principles of non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible.

491. Before being allowed to leave the country a minor must have the consent of both parents, if both are alive; if the parents are separated for any reason or on any ground, permission to leave must given by the parent having custody and also requires the consent of the other parent; if this latter parent refuses consent without due cause, the permission will be granted by a juvenile judge.

77. Reports should also provide information on the progress achieved in the implementation of article 10, difficulties encountered and targets set for the future.

492. See paragraphs 488 to 491 above.

E. Illicit transfer and non-return
(article 11)

78. Please provide information on:

- **The steps taken to prevent and combat the illicit transfer and non-return of children abroad, including legislative, administrative or judicial measures, as well as mechanisms established to monitor such situations;**

- **Any bilateral or multilateral agreement on this subject concluded by the State Party or to which it may have acceded and the impact they have had;**

493. Detailed replies on these points will be found under section H below on adoption.

494. Act nº 19,241 of 28 August 1993 amended article 141 of the Criminal Code by increasing the penalties for the abduction of children and incorporating the offence of male homosexual rape. In addition, a new text was substituted for article 142 on kidnapping or abduction. Furthermore, on 17 June 1994 the Diario Oficial published the text of The Hague Convention on Civil Aspects of the International Abduction of Children. This Convention was adopted at the fourteenth session of The Hague Conference on Private International Law and is designed to secure the immediate return of children transferred or unlawfully held abroad and the observance of custody and visiting rights.

- **Progress achieved and the difficulties met with in countering such situations, together with relevant data on the children concerned, including by gender, age, national**

origin, place of residence, family status and relationship with the perpetrator of the illicit transfer.

495. There have been problems with the implementation of The Hague Convention owing to the defective application by the courts of the emergency procedures established therein.

F. Recovery of maintenance for the child
(article 27, para. 4)

79. Please indicate the measures adopted (including legislative, administrative and judicial measures) and mechanisms or programmes developed to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State and from abroad, including in cases of the separation or divorce of the parents. Information should also be provided on:

- **Measures taken to ensure the maintenance of the child in cases where parents or other persons having financial responsibility for the child evade the payment of such maintenance;**
- **Measures adopted to ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, survival and development to the maximum extent;**
- **The factors and difficulties which may have affected the recovery of maintenance for the child (for example, lack of birth registration) or the enforcement of decisions concerning maintenance obligations;**
- **The relevant international agreements the State has concluded or to which it has acceded, as well as any other appropriate arrangement it has made;**
- **Relevant disaggregated data in this area, including by gender, age, national origin and place of residence of the child and his or her parents, or of the persons financially responsible for him or her.**

496. The legislation has not undergone any great change on this point since the initial report.

497. Chile has not got a centralized and integrated statistical system in the relevant courts which would permit an analysis by case, details of users, etc., for the present report.

G. Children deprived of their family environment
(article 20)

80. Please indicate the measures adopted to ensure:

- **Special protection and assistance to the child who is temporarily or permanently deprived of his or her family environment or in whose own best interests cannot be allowed to remain in that environment;**
- **Alternative care for such a child, specifying the available forms of such care (inter alia foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of the child);**

- **That the placement of such a child in suitable institutions will only be used if really necessary;**

- **Monitoring of the situation of children placed in alternative care;**

498. These points are dealt with at length throughout the report, in particular with reference to the work of SENAME, custody, care and provision of protection measures. (See paragraphs 277 to 291 above.)

- **Respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, survival and development to the maximum extent.**

499. Since 1990 SENAME has been pursuing a new policy based on the principles of subsidiarity, solidarity and promotion of the rights of the child, in accordance with the Convention.

81. Reports should also indicate the extent to which, when such solutions are being considered, due regard is paid to the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background. Disaggregated information should be provided on the children concerned by all such measures, including by gender, age, national, social or ethnic origin, language, religion, and by the nature of the measure of alternative care applied.

500. See table 2, which shows the numbers of admissions to the various SENAME systems from 1994 to 1997.

Table 2
Admissions to the care network of the National Service for Minors

System	*1994*	*1995*	*1996*	*1997*
Behaviour correction (day attendance)	1,046	1,542	1,963	2,268
Foster care	708	873	798	889
Protection (minor problems - day attendance)	106	77	62	55
Gendarmería	5,396	2,625	2,787	2,977
Protection (minor and moderate problems - residential)	297	206	266	263
Probation	1,777	1,558	1,363	1,045
Observation/transit/diagnosis	11,101	5,940	3,967	4,310
Prevention	14,184	15,715	14,764	14,267
Simple protection	7,015	6,719	7,077	7,153
Behaviour correction (residential)	953	1,173	1,138	1,097
Mental treatment (residential)	46	28	77	79
Mental treatment (day attendance)	16	31	9	40
Transit/distribution centre	-	7,440	9,901	9,919
Total	42,645	43,927	44,172	44,362

Source: SENAME.

(a) Protection

The following is the distribution by sex in the various modes of protection (simple, foster care, minor and moderate problems, and mental treatment):

Distribution by sex in protection systems

Year	*Girls (%)*	*Boys (%)*
1994	49.0	51.0
1995	50.1	49.9
1996	51.9	48.1
1997	51.0	49.0

Source: SENAME

(b) Behaviour correction

In the period 1994-1997 admissions for behaviour correction (residential), probation, and behaviour correction (day) were distributed by sex as follows:

Admissions by sex

Year	*Girls (%)*	*Boys (%)*
1994	22.0	78.0
1995	23.9	76.1
1996	24.8	75.2
1997	24.6	75.4

Source: SENAME.

82. Reports should also provide information on the progress achieved in the implementation of this article, any difficulties encountered or on targets set for the future.

501. See paragraph 500 above.

H. Adoption
(article 21)

83. Please indicate the measures adopted, including of a legislative, administrative or judicial nature, to ensure that, when the State recognizes and/or permits the system of adoption, the best interests of the child shall be the paramount consideration. Information should also be provided on:

- **The authorities which are competent to authorize the adoption of a child;**
- **The applicable law and procedures and the pertinent and reliable information on the basis of which adoption is determined;**
- **The child's status concerning his or her parents, relatives and legal guardians necessary for adoption to be considered permissible;**
- **The involvement of the persons concerned, the circumstances under which their informed consent is required and necessary counselling provided, including to allow for the consideration of the alternatives to and consequences of adoption, and the**

extent to which the participation of the child is ensured and his or her views are given due weight;

- **Existing safeguards to protect the child, including any monitoring mechanism put in place;**
- **The effects of adoption on the rights of the child, particularly his or her civil rights, including the child's identity and the right of the child to know his or her biological parents.**

502. It will be useful to review briefly Chile's current adoption legislation:

(a) Act nº 7,613 of 1943 regulating "contractual" or "traditional" adoption, which does not entail filiation since only the status of "adopted child" is granted; although this type of adoption delivers major benefits, they are not equivalent to the benefits enjoyed by a legitimate child, with regard to inheritance for example;

(b) Act nº 18,703 of 1988, which addresses three types of adoption:

(i) Full adoption: this is the only means of according the adopted child the status of legitimate child with all its accompanying rights; the adoptive parents must be non-divorced spouses who have been married for a minimum of four years;

(ii) Simple adoption: this is an assistance measure by means of which persons, including single persons, undertake to care for and raise a child only until the age of majority; its effects are therefore fairly limited;

(iii) Authorization for a child to leave the country for adoption abroad; the adoption is effected in the applicants' country of residence in conformity with the local legislation; its effects are therefore governed by foreign law.

503. All these types of adoption are effected by judicial order, except for contractual adoption, which is granted by a public instrument although it requires the authorization of the competent court. Thus, adoption is always authorized or granted by a judge, but only in places having a court with special jurisdiction over juvenile matters will this judge be a juvenile judge, and the law states only that he must verify the benefit which the measure will bring to the child.

504. However, as explained below, the current legislation does not provide adequate safeguards of the best interests of a child requiring an adoptive family.

505. In fact, the legislation is limited to regulating the legal procedures for the various types of adoption without addressing the preliminary process, which ought to be handled by specialized teams of psychosocial and legal professionals. These teams should provide counselling and support for the child's family of origin in order to ensure that adoption is in fact the correct solution, as well as making a full assessment of the applicants in order to ensure that every child goes to a family which is suitable in terms of the child's characteristics and needs.

506. Under Act nº 7,613 the procedure for contractual adoption requires the agreement of the child and the consent of the parents or where appropriate the child's father or mother or legal representative; if such consent is denied without due cause the competent court may authorize the adoption. A further requirement is for the child's ascendant relatives to be heard, but only the legitimate ones.

507. For simple adoption the Act merely requires that the child's parents should be heard, provided that this is possible.

508. In the case of full adoption and departure from the country for adoption abroad the Act establishes a procedure under which the application is notified to the parents, guardians or other persons who can claim rights with respect to the child, who are given a time limit for appearing before the court and stating their views; they may oppose the application. In any event, it is clear that the court must verify the facts and circumstances motivating and justifying the adoption, especially the benefit to the child, the details of his state of neglect, and the lack of interest and failure to provide care on the part of the parents. Unfortunately, this procedure is carried out in accordance with the Act only after the presentation of the application for adoption or for departure from the country, i.e. when the child is already being cared for by the applicants in the case of national adoption or his departure is already expected if the applicants are foreigners; this may cause conflicts having serious consequences.

509. Despite the fact that as described above this procedure would appear to ensure that the adoption is admissible in the light of the child's legal situation with respect to his parents and relations and that the persons who are to surrender him must give their consent, this does not always happen in practice, for the failure of the current legislation to regulate the stage prior to the legal adoption proceedings has permitted indiscriminate intervention by individuals in this complicated procedure, including for purposes of profit, without adequate preparation. For example, they frequently provoke the abandonment of the child, even bringing pressure to bear for this purpose, or they may simply not give the child up to the biological mother or where appropriate the father, thus preventing her or him from keeping the child. The consequence is that the consent declared before the court is not the outcome of the required counselling, during which the consequences of their decision should have been explained to the parents.

510. It can also be seen that this situation encourages and welcomes adoptions in which the applicants, despite satisfying the scant legal requirements, do not from the technical standpoint constitute a suitable alternative family for the child in question, with the result that his best interests are damaged.

511. The child's participation in the adoption proceedings and the consideration of his opinions are not expressly envisaged in the adoption legislation, and this point is mentioned only in general terms in the Juvenile Act (n° 16,618), which is applied as a residual rule in adoption proceedings in matters not regulated by specific rules: the Juvenile Act provides that the judge must always hear a child aged over 14 and girl aged over 12, if possible, but should hear younger children only when he deems it appropriate.

512. With regard to a child's right to his identity, it must be pointed out that neither in contractual adoption nor in simple adoption does the child lose his connection to his family of origin. In fact, in contractual adoption the child has the option of taking the name or names of the adoptive parents, but in simple adoption his name is never changed.

513. In the case of full adoption, if the connection to the family of origin is broken, the child's birth certificate is replaced by a new certificate identifying him as the legitimate offspring of the adoptive parents. However, the Act provides that the adopted person or his legitimate descendants may obtain certified copies of the adoption papers by judicial order, so that he or they may discover the identity of his original relations. The same provision is applicable in cases of departure from Chile for adoption abroad.

514. The following measures have been taken in order to give effect to the adoption provisions contained in the Convention:

(a) Legislative: the Government has submitted to the Legislature a bill containing comprehensive amendments to the current adoption legislation; it is designed precisely to bring the specific adoption rules into line with the Convention. This bill, which refers expressly to the best interests of the child and seeks to solve the problems described above and others that come up in practice, is undergoing the final constitutional procedure in the Senate of the Republic, although it has not been handled with the urgency that it warrants;

(b) Administrative: in view of the difficulties involved in the application of the existing adoption legislation SENAME, which is a public agency reporting to the Ministry of Justice, has constantly advocated the professionalization of the adoption process in order to ensure due counselling and support for the families of origin of children who may be adopted. SENAME takes charge of the care of such children pending the decision on their future and it has developed programmes for the selection of adoptive parents, so that suitable alternatives are available in each case for proposal to the court responsible for the final decision. There are also private institutions recognized as collaborators of SENAME which run adoption programmes in compliance with all the requirements mentioned above. Regrettably, operating in parallel with these institutions there are the private individuals referred to earlier, whose activities severely distort the system;

(c) Judicial: many of the country's courts, recognizing the importance and complexity of the adoption process, which determines the future of children requiring adoption, accept the collaboration of formal institutions, such as the ones mentioned above, both in verifying the child's situation with regard to his family of origin and in proposing families which have been previously assessed as suitable on the basis of technical criteria and principles. However, sheltered by the gaps and defects in the current legislation, other courts do not accept such collaboration and do not apply adequate safeguards of the child's best interests. It is also worth drawing attention here to rules emanating from Chile's higher courts instructing the juvenile courts in connection with the procedure for departure from the country; although these rules delay cases unnecessarily, they do constitute progress when they stipulate that in considering applications for overseas adoption the juvenile courts must duly pursue and protect the interests of the child.

515. SENAME has also created special adoption units in its regional offices.

84. In the case of intercountry adoption, please indicate the measures undertaken to ensure that:

- **Such a solution is only considered as an alternative means of care for the child if he or she cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;**
- **The child involved in intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;**
- **Placement by intercountry adoption does not result in improper financial gain for those involved in it;**
- **Appropriate mechanisms have been established to monitor the situation of the child, including following his or her placement through intercountry adoption, and to ensure that his or her best interests prevail as a paramount consideration.**

516. The current adoption legislation does not address the right of a child requiring an adoptive family to find it by preference in his country of origin, even though this right is established in the Convention and included in the instructions issued by the higher courts. The right is still being infringed today, for the departure abroad of children who could be adopted in Chile is still being authorized.

517. Furthermore, since the adoption of children who leave Chile is effected in the applicants' country of residence in accordance with local law, it is not possible under the current legislation to require that such children enjoy the protection of the same adoption safeguards and standards as are in force in Chile. In fact, Chilean legislation requires only that the applicants certify, by means of a certificate issued by the corresponding Chilean consul, that they satisfy the requirements of their own adoption law, but there is no indication as to what those requirements are, and in practice they may be more permissive than the requirements of Chilean legislation. As for the child, the only necessity is a certificate that he satisfies the conditions of the immigration authorities of the applicants' country of residence for entry to that country; there is no stipulation of certification that he meets the requirements for adoption in that country.

518. Chilean legislation does not characterize as crimes trafficking in children or improper financial gain from participation in proceedings for adoption or departure from the country, with the result that there are in fact individuals who intermediate in these procedures, as already explained, and obtain substantial financial gain.

519. When it comes to monitoring adopted children, Act n° 18,703 establishes merely that, once authorization to leave the country has been granted, it is for the Chilean consul to see that the adoption is effected in accordance with the procedure specified in the local legislation.

520. The measures taken to give effect to the right of a child requiring an adoptive family to find it by preference in his country of origin include:

(a) Legislative: the bill discussed in paragraphs 502 to 515 above envisages "full intercountry adoption" effected in Chile and admissible only when there are no Chilean couples or foreign couples permanently resident in Chile interested in adopting the child in question and when the applicants reside in a country with which Chile has concluded a bilateral or multilateral agreement regulating such adoption. These agreements also regulate the monitoring of the child, which is a responsibility of the Chilean consul, who may request information on the child's situation from the local authorities and may even visit him in his home; the foreign governmental agency sponsoring the intercountry adoption also has an obligation to monitor the child for two years. The Chilean bill also characterizes as a crime improper financial gain from the delivery of a child for adoption, a practice which will in any event be eliminated, for the bill puts an end to the intermediation of private individuals in the process by stipulating that only SENAME or private bodies accredited to SENAME, and therefore subject to controls, may act in adoption programmes;

(b) Administrative: as already pointed out, SENAME and its private collaborating institutions have in fact established programmes to encourage national adoption in order to meet the big demand from couples resident in Chile who wish to adopt. In addition, SENAME considers intercountry adoption for children who have no possibility of national adoption owing to their age and/or other characteristics; for this purpose it engages in de facto coordination with countries having official agencies which can guarantee the suitability of the applicants and the monitoring of the adopted children;

(c) Judicial: it must be mentioned here that the instructions referred to above, issued by a resolution of Chile's higher courts, expressly specify as one of the grounds for approval in cases of departure from the country the fact that the child cannot be placed in a foster or adoptive family in Chile and cannot be cared for adequately in accordance with the Convention. Furthermore, the courts are instructed that they may authorize a departure for adoption abroad only after they have concluded that it is impossible to provide the child with a normal family environment in Chile. As already mentioned, many courts comply with these instructions by first exhausting the possibilities of placing children with families resident in Chile and then accepting applications from abroad only when national placement is impossible. However, other courts, taking advantage of the gaps and defects in the current legislation, continue to authorize the departure of children who could be taken in by Chilean families.

85. Reports should also indicate:

- **Any bilateral or multilateral arrangements or agreements concluded by the State to promote the objectives of article 21 (for example, the Hague Convention of May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption);**

521. In 1996 The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, signed in 1993, was submitted to the national Congress for approval.

522. Furthermore, in 1997 the Inter-American Convention on Conflict of Laws in Child Adoption, signed at La Paz in 1984, was submitted to the Congress for approval.

523. It is thought that neither of these two Conventions will be approved until the new adoption act is in force. However, since the bill in question is fully in conformity with both international instruments it is expected that, following their promulgation or approval, the bill and the conventions will constitute an adequate regulatory framework for both national and international adoption and will respect and safeguard the best interests of the child.

- **Within this framework, the measures adopted to ensure that the placement of a child in another country is carried out by competent authorities or organs;**

524. As stated above, a child's departure for adoption abroad must always be authorized by the competent court, which has the support of SENAME as a supplementary authority; under the current legislation SENAME must issue a technical report on the appropriateness or otherwise of the child's departure from Chile with the applicants. This report takes into account the likelihood of the child's adoption in Chile; if that seems impossible and the child has to be sent abroad, a technical assessment is made of whether the applicants constitute the best family option for the child in the light of his needs and special characteristics. However, this opinion is not binding on the court, which has the sovereign right to make the decision. In fact, as explained, there are some courts which authorize departure despite information that Chilean couples with suitable backgrounds are interested in adopting the child and despite disqualifying counter-indications about the applicants with respect to the child.

525. Quite apart from that, the most worrying aspect is the way in which various intermediaries locate children and offer them to foreign couples, even prompting their abandonment, and all of this taking place before the case is brought before the competent court.

526. The adoption bill limits intervention in adoption programmes exclusively to SENAME or other accredited bodies, where there will be the additional safeguard of the participation, as representative of the applicant couple, of an official or duly authorized organ of their country of residence in accordance with the adoption agreement concluded with that country. In other words, the whole process will be carried through by competent authorities or organs.

527. At present SENAME deals in fact only with countries which have official authorities or organs, with the result that the courts entrust to them the selection of families resident abroad for children whose future the courts have to decide and who have no possibility of being adopted in Chile.

- **Relevant disaggregated data on the children involved in intercountry adoption, including by age, gender, status of the child, situation of the child's family of origin and of adoption, as well as country of origin and of adoption;**

528. As already pointed out, under the current legislation intercountry adoptions are effected abroad without any adequate system of monitoring. Furthermore, since many of the applications result from the intermediation of private individuals, reliable information about the situation of the child's family of origin is not always made available.

529. For this reason the statistics produced by SENAME in the exercise of the functions entrusted to it under the Act record only the applications for departure received (see table 3), which are transmitted to the competent court with the technical report referred to earlier; these figures do not match the number of children whose departure is actually authorized by the various courts.

Table 3
Reports issued for international adoptions 1988-1997*

Year	*Number of reports*
1988 (June-Dec.)	467
1989	1,020
1990	884
1991	720
1992	417
1993	238
1994	241
1995	238
1996	195
1997**	141

* Under Act nº 18,703 (10 May 1998)
** Information up to October 1997

530. An analysis of the reports issued over the last four years in connection with applications for departure shows the following numbers of cases in which SENAME recommended against the application, for the main countries of destination:

Year	*Reports issued*	*Unfavourable*	*Main countries of destination*
1994	241	116	USA, Italy, France
1995	238	111	USA, Italy, France
1996	195	80	USA, Italy, Spain
1997*	141	31	Switzerland, Italy, France

* Information up to October 1997

531. Information supplied by the National Office of Overseas Affairs and International Police, which under Chilean law must record the departure from the country of all minors and submit the list to SENAME, reveals the following picture:

Year	*Number of children*
1991	514
1992	360
1993	174
1994	202
1995	193
1996	165
1997	106

532. The difference between the number of reports issued and the number of children who actually left the country is due to the fact that many departures occur despite a recommendation to the contrary.

- **Progress achieved in the implementation of article 21, difficulties encountered and targets set for the future.**

533. It may be asserted by way of conclusion that an awareness has been created of the importance of adoption as the best option for a child who has been abandoned or whose parents are incapable of attending to his upbringing. In addition, encouragement has been given to intervention by professionals specializing in this area, who can provide all the actors in the process with the necessary counselling and care with a view to putting all the background information before the court which will decide the case. National adoption has also been encouraged in order to give effect to the right of a child requiring a family to find it in his country of origin, with recourse to intercountry adoption only when unavoidable and subject to the necessary safeguards of the child's best interests.

534. All of this was made possible by the programmes of SENAME and its collaborating private institutions and by the publicity given to the subject.

535. The biggest obstacle in the process is the defective legislation governing adoptions in Chile, legislation which continues to provide a shelter for infringement of the rights established in article 21 of the Convention despite the fact that the Convention has been promulgated as a law of the Republic having, moreover, constitutional status.

536. For these reasons the main objectives will remain, firstly, to secure the early enactment of the adoptions bill, which will bring the legislation up to date and into line with the principles and safeguards contained in the Convention, and then to secure approval of other international instruments such as The Hague Convention, in order to equip Chile with legislation providing comprehensive protection for children requiring adoption and ensuring that their best interests are indeed the paramount consideration for the authorities and organs involved in the adoption process.

I. Periodic review of placement
(article 25)

86. Please indicate the measures undertaken, including of a legislative, administrative and judicial nature, to recognize the right of the child who has been placed by the competent

authorities for the purposes of care, protection or treatment of his or her physical and mental health, to a periodic review of the treatment provided to the child in public and private institutions, services and facilities, as well as all other circumstances relevant to his or her placement.

537. The current juvenile legislation does not establish the obligation to review the measures ordered by the courts, so that in most cases once a measure has been ordered it is not subject to court review. Nevertheless, since 1990 one of the SENAME care policies has been to advocate most strongly that care orders should be only temporary, especially in the case of placement in an institution, and should be backed up by work with the families concerned.

538. This policy has compelled the institutions to incorporate the review of placements and monitoring of their duration in the routine procedures; this approach has been reinforced by the encouragement given by SENAME to the periodic examination of children in institutions, a matter receiving direct attention from the technical supervisors in each region.

539. This work has the concrete and indispensable support of the SENAME data base, which provides information about length of stay in institutions and identifies those institutions in critical situations requiring the attention of the regional offices and technical supervisors.

540. But even this is not enough, for the current legal regulations on subsidies contain no provisions as to suitable lengths of stay in connection with the disbursement of funds, nor do they address the possibility of sanctioning an institution which does not release a child when it can or does not work with early release in mind.

87. Information should be provided inter alia on:

- **The authorities considered competent for such purposes, including any appropriate independent mechanism established;**

541. The competent authorities are the juvenile courts in judicial matters, SENAME in administrative matters, and the institutions collaborating with SENAME in the work described above. (For more details see paragraphs 277 to 191.)

- **The circumstances taken into account in deciding on the placement of the child for his or her care, protection and treatment;**

542. The circumstances determining placement are regulated by the Juvenile Act. This Act permits the application of a placement order when the child is in a situation of moral or material danger or in other undesirable situations resulting from the incapacity of the parents or the commission of a crime.

543. The regulations are stricter in administrative matters, establishing admission requirements for the assistance systems and definitions of the subject of care, but these requirements are not based on the current Juvenile Act.

- **The frequency of review of the placement and treatment provided;**

544. As mentioned above, there are no legal regulations on review; all that exists at present is the SENAME technical policies regarding the temporary nature of placement measures and the need to work for early release.

- **The respect ensured to the provisions and principles of the Convention, including non-discrimination, the best interests of the child and respect for the views of the child;**

545. As already pointed out, these principles were introduced by Justice Ministry Decree nº 730 of 1996, which regulates children's homes and care institutions. (See chapter III of this report.)

- **Relevant data on the children concerned, including in situations of abandonment, disability and asylum seeking and refugees, including unaccompanied children, and in situations of conflict with the law, disaggregated inter alia by age, gender, national, ethnic and social origin, family situation and place of residence, as well as by duration of placement and frequency of its review;**

546. See paragraph 500 above.

J. Abuse and neglect (article 19), including physical and psychological recovery and social reintegration (article 39)

88. Please indicate all appropriate legislative, administrative, social and educational measures taken pursuant to article 19 to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Reports should indicate in particular:

- **Whether legislation (criminal and/or family law) includes a prohibition of all forms of physical and mental violence, including corporal punishment, deliberate humiliation, injury, abuse, neglect or exploitation, inter alia within the family, in foster and other forms of care, and in public or private institutions, such as penal institutions and schools;**

547. See paragraphs 367 to 451 above.

- **Other existing legal safeguards relevant to the protection of the child as required by article 19;**

548. See paragraphs 367 to 451 above.

- **Whether complaint procedures have been foreseen and the child can lodge complaints, either directly or through a representative, as well as remedies available (for example, compensation);**

549. There are no provisions on special procedures but only the general procedures applicable to children victims of maltreatment.

550. Since in Chile the concept of complaint implies the reporting to the police or the courts of the occurrence or commission of an act, in this case an act constituting maltreatment, the following distinctions must be made:

(a) In criminal cases, although they are few in number, there is no conceptual or material impediment preventing a child from reporting an offence of which he is the victim. Since all members of the police have a duty to report to the courts any offences brought to their attention in their official capacity, it is sufficient for the child to approach any police officer for action to be taken on the complaint;

(b) Again in criminal cases, rape gives rise to the most unsatisfactory situation in that article 19 of the Code of Criminal Procedure provides that no official proceedings may be brought in cases of rape unless a complaint has been lodged by the victim, her parents, grandparents or guardians or other persons responsible for her care or maintenance. The result is that unless a complaint is lodged in this way no judicial action for rape may be brought against the perpetrator, even when the facts of his act and his responsibility for it are public knowledge;

(c) Similarly, in cases of intra-family violence there is no impediment preventing a child victim from making a complaint, since the police have a duty to report to the competent court any complaints of intra-family violence received and since proceedings in such cases may be initiated by "complaint or application";

(d) The situation is the same in cases of extra-family maltreatment of children; the rule punishing such maltreatment is contained in the Juvenile Act, article 31 of which states that "a court may exercise the powers conferred by this Act at the request of the Juvenile Police, of a body or organ providing care for children, of any person, or even of its own motion". Thus "any person", including a child, may request a juvenile court to exercise its powers;

(e) The same rule applies to the initiation of protection procedures, which are also regulated by the Juvenile Act and likewise subject to article 31 thereof.

- **The procedures developed for intervention by the authorities in cases where the child requires protection from any form of violence, abuse or negligence, as required by article 19;**

551. See paragraphs 367 to 451 above.

- **The educational and other measures adopted to promote positive and non-violent forms of discipline, care and treatment of the child;**

552. See paragraphs 367 to 451 above.

- **Any information and awareness-raising campaigns to prevent situations of violence, abuse or negligence and to strengthen the system for the child's protection;**

553. See paragraphs 367 to 451 above.

Any mechanisms established to monitor the extent of the forms of violence, injury or abuse, neglect, maltreatment or exploitation considered by article 19, including within the family, in institutional or other care, of a welfare, educational or penal nature, and the social and other factors contributing thereto, as well as any evaluation made of the effectiveness of the measures adopted; in this regard Disaggregated data should be provided on the children concerned, including by age, gender, family situation, rural/urban, social and ethnic origin.

554. See paragraphs 367 to 451 above.

89. With respect to article 19, paragraph 2, reports should also provide information inter alia on:

- **Effective procedures developed for the establishment of social programmes to provide necessary support for the child and those who have the care of the child, including rehabilitation mechanisms;**

555. See paragraphs 367 to 451 above.

- **Any other forms of prevention;**

556. See paragraphs 367 to 451 above.

- **Effective measures adopted for the identification, reporting, referral, investigation, treatment and follow-up of instances of maltreatment covered by article 19, as well as for judicial involvement;**

557. The question of the effectiveness of the measures adopted for identification, referral, investigation and judicial action falls rather within the scope of the discussion of Acts Nos. 19,324 and 19,325, promulgated in 1994.

558. It is still too early for any evaluation of the effectiveness of the measures adopted for treatment and follow-up of cases in the projects implemented by SENAME, for the special projects based on the model developed under the programme for care and intervention in cases of maltreatment of children came into operation as recently as November 1997.

- **The existence of any system of mandatory reporting for professional groups working with and for children (for example teachers, medical doctors);**

559. With regard to the mandatory requirement for various groups of professionals or other persons to report certain facts to the police or the courts (complaints procedure), all public officials have an obligation to report acts constituting offences which come to their notice in the exercise of their functions.

560. The personnel of the health systems (doctors, nurses, midwives, etc.) also have a duty to report any signs of injury found on persons attending any hospital facility in the country. All members of the police have the same duty.

561. Pursuant to article 66.1 of Act nº 16,618, the same persons who have a duty to report maltreatment offences are likewise obliged to report cases of maltreatment which do not constitute offences.

562. This obligation also extends to teachers and other persons responsible for the education of children.

- **The existence of confidential help lines, advice or counselling for child victims of violence, abuse or neglect or any other form considered by article 19;**

563. There is currently a telephone line known as "Fono al habla" operated by the non-governmental organization ACHNU; the purpose is to counsel, reassure and refer callers. This line is intended especially for children.

564. There is also the programme on intra-family violence and child abuse of the Ministry of Justice which, in conjunction with the Carabineros, the criminal investigation police, the regional governments and the Telecommunications Corporation of Chile, introduced in 1995 in the Metropolitan region, under this programme, a help line (800 220040) to inform the public about Act nº 19,325 on intra-family violence and Act nº 19,324 on child abuse. With the support of the institutions mentioned above, this service has been available seven days a week and 24 hours a day.

565. The 800-line programme has been expanding ever since its creation to cover almost all the regions of the country; it has also increased the scope of its objectives.

566. The programme is currently operating in regions I to IX and XI, as well as in the Metropolitan region.

567. The following are the programme's objectives:

(a) To disseminate information about Acts 19,325 and 19,324;

(b) To receive complaints of intra-family violence and child abuse and to refer them to the organs and institutions constituting the support network (NGOs, State agencies, voluntary organizations);

(c) To augment the impact of measures to prevent child abuse by creating community monitors.

- **The special training provided for relevant professionals. (See also paragraphs 268 to 271 above.)**

568. As pointed out earlier, SENAME has established training courses on this subject for members of its collaborating institutions. The SENAME child abuse programme has produced general technical guidelines for the operation of programmes for dealing with child abuse, which must be observed in the projects funded by SENAME. For further details see paragraphs 367 to 451 above.

90. Please also indicate the measures adopted pursuant to article 39 to ensure the physical and psychological recovery and social reintegration of the child victim of any form of neglect, exploitation or abuse referred to in article 19, in an environment which fosters the health, self-respect and dignity of the child. Information should also be provided on the progress achieved, any difficulties encountered and on the targets set for the future.

569. See paragraphs 367 to 451 above.

91. Reports should also provide information on the progress achieved in the implementation of these articles, difficulties encountered and targets set for the future.

570. See paragraphs 501 to 569 above.

VI. BASIC HEALTH AND WELFARE
(articles 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3)

A. Disabled children
(article 23)

92. **Please provide information on:**

- **The situation of the mentally or physically disabled child and the measures taken to ensure:**
    - **The child's enjoyment of his or her rights without discrimination of any kind and the prevention and elimination of discriminatory attitudes against him or her;**
    - **The promotion of the child's active participation in the community;**
    - **The child's effective access to education, training, health care and rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development;**
    - **The consideration given to the inclusion of disabled children together with children without disabilities in institutions, services and facilities, including within the education system;**
    - **The child's right to special care and the steps taken to ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance appropriate to the child's condition and to the circumstances of the parents or others caring for the child;**
    - **That, whenever possible, assistance is provided free of charge, taking into account the financial resources of the parents or others caring for the child;**
- **The measures taken to ensure an effective evaluation of the situation of disabled children, including the development of a system of identification and tracking of disabled children, the establishment of any appropriate monitoring mechanism, the assessment of progress and of difficulties encountered, as well as any targets set for the future;**
- **The measures taken to ensure adequate training, including specialized training, for those responsible for the care of disabled children, including at the family and community levels and within relevant institutions;**
- **The measures taken to promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of the medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services. An indication should be given of the measures taken with the aim of enabling States Parties to the Convention to improve their capabilities and skills and to widen their experience in these areas, and the consideration given to the particular needs of developing countries;**

- **The children concerned, including by type of disability, the coverage of the assistance provided, programmes and services made available, including in the fields of education, training, care, rehabilitation, employment and recreation, the financial and other resources allocated, and other relevant information, disaggregated inter alia by gender, age, rural/urban area, and social and ethnic origin.**

571. Since 1990 social integration has been the central concept of the organization of the work done by Chile's Governments to help the disabled. This is a complex process to which contributions must be made by all the organs of the State, all the institutions of civil society, and each and every citizen.

572. There are three big tasks from which stems a vast range of targets and commitments requiring support from all sides: prevention of disabilities, rehabilitation of disabled persons, and delivery of equal opportunities.

573. In the light of these tasks, on 14 January 1994 the Government promulgated Act n° 19,284 on the full social integration of persons with disabilities; this Act was an extremely important milestone in the history of social policy in Chile, not only because of its content but also because it created the National Disability Fund, a juridical person in public law enjoying autonomy and full capacity for procurement, exercising rights and contracting obligations for the benefit of disabled persons. The Fund is linked to the State through MIDEPLAN.

574. Article 1 of Act n° 19,284 states: "The provisions of the present Act are intended to establish the form and conditions for the full integration of persons with disabilities in society and to ensure the full exercise of the rights accorded to all persons by the Constitution and the law".

575. According to the latest socio-economic survey in 1996, which included for the first time a module designed to collect information about persons affected by a disability, Chile has 130,980 disabled children. The distribution by type of disability is shown in table 4.

Table 4
Disabled population aged 18 years and under

Disability	*Number*	*Percentage*
Hearing	24,905	19.0
Speech	19,825	15.1
Sight	27,921	21.3
Mental	30,234	23.1
Physical	15,478	11.8
Psychic causes	9,891	7.6
No information	2,726	2.1
Total	130,980	100.0

Source: MIDEPLAN, Department of Social Information, CASEN survey 1996.

576. While it is true that Act n° 19,284 addresses the disabled in general, many of its provisions relate to matters directly connected with disabled children and their rights.

577. Attention is drawn in this context to the programmes described below concerned with prevention, rehabilitation and provision of equal opportunities, which the various public-sector services are carrying out.

578. Where health is concerned, the Ministry of Health has been playing a permanent role in the design and management of health policies for the disabled, for in addition to diagnosing and evaluating disabilities it is responsible for programming, evaluating and implementing measures to prevent the causes of the deficiencies which give rise to disabilities as well as measures to prevent the worsening of disabilities or their development into other problems.

579. The prevention work is done through the basic programmes and units by promoting health and preventing and diagnosing incapacitating diseases at the primary-care level. The following are some examples of these programmes:

- Monitoring of healthy children
- Immunizations
- Detection of metabolic defects in new-born babies
- Stimulation of psychomotor development (children)
- Monitoring of nutrition (mothers and children)
- Special monitoring of groups at high medical, social and environmental risk
- Monitoring of pregnancies
- Professional attendance at childbirth
- Responsible parenthood
- Genetic counselling
- Promotion of mental health
- Prevention of alcoholism and drug addiction
- Special training in mental health for primary-health teams

580. Where rehabilitation is concerned, attention is drawn to the programmes of the rehabilitation and mental health units and to the activities carried out under the basic health programmes and the grass-roots rehabilitation strategy. The following are the existing programmes for children:

- Improvement of the physical medicine and rehabilitation services
- Agreement with Pro-Ayuda al Niño Limitado (for under-18s)
- Physical rehabilitation and social reintegration
- Fund for agreements with residential institutions

- Community mental health centres

581. The education services, like the health services, have been addressing the topic of disability throughout the last eight decades. However, it was not until 1976 that they established for the first time in Chile, for pupils with mental or learning disabilities, a standard curriculum for special education schools in which a multi-occupation workshop was included as the last course.

582. Since 1980 the Ministry has been approving curricula and programmes of special studies for any school requesting them.

583. In 1990 it issued new decrees on the curricula and programmes for the various disabilities, some of which include work training within a school's general activities. One particularly important move was the issue in 1990 of Decree nº 490 on the integration in the education system of children affected by any type of disability. The most pertinent point in this Decree is that schools which decide formally to address the question of integration must sign an agreement with the Ministry establishing clearly how the school is going to proceed in this matter, what adjustments will have to be made in its curricula, and the forms of assessment to which the pupils will be subjected.

584. Schools accept the integration approach voluntarily, and those which do so receive a special grant from the Ministry.

585. The following are some of the integration measures and programmes:

(a) Establishment of a schools security unit in the Ministry;

(b) Agreement with Pro-Ayuda al Niño Limitado on the transfer of special funds to this institution;

(c) Grants programme for special-education schools;

(d) Support for groups of disabled pupils to contribute to the funding of their general basic education (integrated disabled children and children with specific learning disabilities);

(e) School health programme for the identification of children with disabilities, assessment of the disabilities, and provision of technical assistance if necessary;

(f) The MECE programme on improvement of the quality and equity of education in general. The basic education component includes the creation of integrated-education workshops and financing for projects to improve the education provided in special schools;

(g) The INTEGRA Foundation has a care centre for disabled children;

(h) The National Kindergarten Board is carrying out an integrated-education programme in kindergartens.

586. Where employment is concerned, up the beginning of the present decade the most significant efforts made for disabled persons by the Ministry of Labour were centred on the Insurance Standards Institute and the payment of subsidies and pensions. However, new measures for the disabled were adopted in 1990, when the topic of disability was incorporated in Chile's social policies and a multisectoral approach was introduced. One such measure was the payment by the Institute of subsidies and pensions under Decree Law nº 869 of 1979. It pays monthly pensions to disabled

persons aged over 18 years and to persons with physical or mental disabilities from poor families regardless of their age.

587. The Department of Sports and Recreation has two programmes for the disabled:

(a) "Sports track for the disabled": a national programme implemented at the regional level;

(b) Subprogramme of support for special education: approval of projects submitted by special schools.

588. Furthermore, even when MIDEPLAN does not participate as executing agency for programmes for the disabled it still plays a role through the provision of financial support for specific measures or through agreements with other institutions and agencies. These include:

(a) An awareness campaign on the topic of disability and the publicising of Act n° 19,284 and its regulations;

(b) The FONADIS programme:

(i) Technical support programme;

(ii) Scholarships for study in vocational-education technical schools;

(iii) Workshop projects;

(iv) Special projects.

589. The Ministry of Justice acts mainly through two programmes/agencies:

(a) Subsidies for disabled children housed in SENAME institutions;

(b) Establishment and maintenance of the National Disability Register created by Act n° 19,284 in 1994.

590. Four systems of assistance are available for children with mental defects receiving care in the SENAME network for reasons of social risk or problems with the exercise of guardianship: residential care for slight and moderate disabilities; psychiatric rehabilitation for severe and profound disabilities; day care for slight and moderate disabilities; and day care for psychiatric rehabilitation. These systems provide comprehensive care exclusively for children with these disabilities, who often suffer the double discrimination of mental disability and social risk - a big obstacle to the social integration which must be the aim of any programme of this kind.

591. In view of the harmful consequences of these problems, the subsidies bill, which is intended to replace the current Decree-law n° 1,385 on the transfer of funds to collaborating institutions, incorporates the principles of integration and normal treatment, especially for children and young people with the disabilities mentioned above. The plan is to place these mentally disabled persons together with normal children (except in the case of profound mental deficiency) when they require technical treatment to overcome social and family problems resulting from their condition, always bearing in mind their particular needs but without subjecting them to any restrictive measures.

592. This treatment is of course provided free of charge since this is a social programme for children with special needs.

593. With regard to the measures taken to ensure an effective evaluation of the situation of mentally disabled children, including a system of identification and tracking, SENAME has both residential and out-patient diagnosis centres which make the necessary evaluations for referral to specialized facilities. Attention may be drawn here to the establishment in the Metropolitan region of an out-patient diagnosis unit specializing in mental disability, which is funded by SENAME and run by the COANIL collaborating institution. However, there are no regular arrangements for the systematic assessment of the application of this measure.

594. Where the identification and tracking system is concerned, all the children in the network, including the disabled children, have an admission card showing their general and specific history, which is entered in the SENAME data base, thus facilitating the identification of the children concerned, the tracking of their progress in the system, and the retrieval of information about their condition on release, the place of release and the persons taking over responsibility for them.

595. All the care establishments are supervised by the SENAME regional offices, which are also responsible for evaluation and monitoring of the collaborating institutions managing the establishments in question.

596. Training in the care of mentally disabled children is provided under the regional programmes funded by SENAME, which are attended by personnel from all the collaborating institutions, depending on the needs of the assistance network. The institutions also run their own training programmes.

597. With respect to the measures taken by SENAME to promote the exchange of information on this subject, there is a focal point connected to a Latin American information system designed specifically for the exchange of knowledge about various matters related to children, including mental disability. In addition, SENAME regularly organizes meetings for exchanges among professionals as part of its effort to improve the conditions of the release and social integration of the children treated in the network.

598. The following table shows the coverage of the SENAME services for mentally disabled children.

System	*Places*	*Units*
Slight and moderate disability (residential)	1,113	22
Psychiatric rehabilitation (residential)	836	7
Psychiatric rehabilitation (day)	102	3
Slight and moderate disability (day)	135	3
Total	2,186	35

599. The following table shows the cost in 1996 of the subsidized places in the various systems treating mental disability.

System	*Agreed amount 1996*
Slight and moderate disability (residential)	968,281,828
Psychiatric rehabilitation (residential)	706,319,639
Slight and moderate disability (day)	33,894,877
Psychiatric rehabilitation (day)	63,365,388
Foster care	24,752,736
Total	1,796,614,468

600. To this must be added the contribution of the support programme, which has helped to finance a number of projects designed to increase and duly promote the social integration of these disabled children in the family. Such projects have been executed in regions V, VI and VII and in the Metropolitan region; the emphasis has been on children and young people both in the family and in the community environment. In 1996 these projects received an allocation of 135,942,556 pesos.

B. Health and health services
(article 24)

93. Please indicate the measures adopted pursuant to articles 6 and 24:

- **To recognize and ensure the right of the child to the enjoyment of the highest attainable standard of health and to facilities for treatment and rehabilitation;**
- **To ensure that no child is deprived of his or her right of access to such health care services;**
- **To ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, and survival and development to the maximum extent possible.**

601. Chile has a mixed health system, in which the public sector is responsible for most of the preventive and environmental measures and for the medical care of about 70% of the total population.

602. The year 1952 saw the creation of the National Health Service by the merger of the medical services provided by social insurance and public charities at that date. In 1978 the National Health Service was decentralized into 27 independent services operating technically under the Health Ministry and responsible for providing health care to the people. Two new such services were recently created, making a total of 29 for the whole country.

603. The activities of the National System of Health Services are grouped into five main programmes by type of recipient: children, from birth to age nine; adolescents, from age 10 to 19; women's health, which is concerned with maternal and reproductive health; adults and the elderly, covering persons aged 15 and older; and the dental programme, which covers the whole population. In 1995 the Health System possessed for the operation of these programmes 189 hospitals of various sizes, 121 specialized consultation units attached to big hospitals, 376 general urban and rural consultation units, and 1,822 rural health posts.

604. Attention must be drawn to one peculiar feature of Chile's Health System: its emphasis on health promotion and disease prevention measures, which developed historically around the maternal

and child programmes. Nurses and midwives play a fundamental role in the implementation of these measures.

605. Every one of the programme activities is designed for implementation within the framework of the concept of the health team and continuous care. For example, the antenatal and puerperal checks, the monitoring of children's health, the expanded programme on immunization, responsible parenthood, cervical cancer screening, and the supplementary food programme are closely coordinated with each other. This arrangement encourages people to request the services available under the programmes, which consequently produce the desired effect.

606. It should also be mentioned that about 20 years ago the concept of allocation of resources according to risk factors was introduced into the maternal and child programmes; this facilitated proper development of the care strategies and delivered a better yield from the resources.

607. During the 1980s the public health sector was affected by severe spending constraints, especially on investment, with a resulting build-up of various kinds of problem which threatened to halt the downward trend in the mortality and morbidity rates. These constraints had their heaviest impact on the tertiary level, affecting the quality of the professional care of mothers and children, especially in the big urban areas.

608. The child health programme gives priority to promotional and preventive work, with emphasis on the monitoring of growth and biological, psychological and social development with a view to improving the quality of life of children and their families. The following are the basic strategies of this programme:

(a) Encouragement of the effective participation of the community in the care of its health, with maximum efforts made to project the health services outwards into the community;

(b) Education of the family and civic organizations, for they are ultimately the only means of satisfying children's biological and psychosocial needs.

94. Reports should also provide information about the measures adopted to identify changes which have occurred since the submission of the State party's previous report, their impact on the life of children, as well as the indicators used to assess the progress achieved in the implementation of this right, the difficulties encountered and any targets identified for the future, including in relation to child mortality and child morbidity, service coverage, data collection, policies and legislation, budget allocation (including in relation to the general budget), involvement of non-governmental organizations and international assistance.

609. See paragraphs 610 to 716 below.

95. Please also provide information on the measures undertaken in particular:

- **To diminish infant and child mortality, indicating the average rates and providing relevant disaggregated data, including by gender, age, region, rural/urban area, ethnic and social origin.**

610. Infant mortality is one of the most significant indicators of the state of the population's health. In Chile, this indicator has shown a constant downtrend over recent decades. In 1950, 136 out of every 1,000 children died before completing the first year of life; by 1970 the rate had fallen to 79 per 1,000 live births, by 1990 to 17 per 1,000, and by 1996 to 11.1 per 1,000. This trend has

many different causes, connected on the one hand with the work of the health sector and on the other with demographic changes and the influence of the other social and economic sectors.

611. Late infant mortality has declined more sharply than neonatal mortality. The current (1996) rate of 4.9 per 1,000 still shows a high proportion of preventible causes such as, for instance, acute respiratory infections and accidents.

612. Mortality among children aged one to four years fell sharply in the past decade. In 1989 there were 991 deaths in this age group, or a rate of 0,85 per 1,000; the 1996 rate was 0.48 per 1,000, with a total of 566 deaths. The main cause of death in this age group was accidents.

613. Neonatal mortality accounts for 57% of deaths among children aged under one year. About 80% of deaths among children aged under 28 days occur in the first week of life.

614. The three leading specific causes of death among new-born babies remain extreme prematurity, hyaline membrane disease, and perinatal infections and acute asphyxia at birth; together they account for 65% of all deaths due to this group of causes. A large proportion of these specific causes is associated with low birth-weight. It is estimated that five% of the babies born in 1996 weighed less than 2,500 grams and that 16% were underweight (between 2,500 and 2,999 grams). These figures have remained fairly stable in recent years and are lower than those found in other developing countries.

615. An analysis of the main problems of child health shows a large variation in the epidemiological profile over the last 20 years, with perinatal problems acquiring particular importance and with congenital disorders and accidents emerging as problems. Acute respiratory infections maintain their morbidity rate, being closely linked to levels of atmospheric pollution.

616. To sum up, the main causes of child mortality are perinatal problems, congenital abnormalities, diseases of the respiratory apparatus, and injuries and poisoning; together they account for about 85% of total deaths. Each of these causes is discussed below, together with the strategies for tackling them.

Perinatal problems

617. Perinatal problems occupy first place among the groups of causes of death among children aged under one year, with a rate of 3.6 per 1,000 live births, a third of total deaths. As already mentioned, the main specific causes in this group in order of importance are extreme prematurity, hyaline membrane disease, perinatal infections and acute asphyxia at birth, which together account for 65% of all deaths due to this group of causes.

618. The following measures have been taken to tackle this situation:

(a) Improvement of the quality of antenatal care to render it more accessible and efficient and capable of identifying and managing high-risk pregnancies;

(b) Training health teams in childbirth care and immediate care of new-born babies;

(c) Provision of sufficient trained human resources. The action taken in this area included the development of a national training plan, during the first stage of which (1992) eight workshops were held in different parts of the country with the main objective of improving the technical and administrative management of neonatal care. Efforts have also been made to improve the situation of the human resources available for the pathological care of new-born babies, in particular by establishing six medical residences in the following facilities: La Serena Hospital, Talca Hospital, Temuco Hospital, Barros Luco Trudeau Hospital, San Borja Arriarán Hospital and Salvador Hospital. This meant that each of these facilities was provided with six 28-hour medical posts;

(d) Improvement of the quality of perinatal medical care. To this end the Ministry of Health introduced in 1992 a neonatal equipment plan which envisaged the provision of equipment in all the neonatology units of the country's level-1 and level-2 hospitals. These units were supplied with intensive-care, standard and transport incubators, medical-procedure and radiant-heat cots and mechanical ventilators, thus satisfying the basic equipment needs in this area;

(e) Development of the monitoring of high-risk new-born babies in the polyclinics. A national programme on the use of surfactant was started up in 1998; the target population is all babies with very low birth weight (under 1,500 grams). The aim of this programme is to reduce the morbidity and mortality associated with extreme prematurity and achieve a better quality of survival of premature babies;

(f) Education of mothers in feeding habits and proper use of the resources of the national food supplement plan;

(g) Assignment of priority to risk groups: adolescents; women with low weight; pregnant women with medical risks such as infections, anaemia, etc.; women with a history of low-weight babies from earlier pregnancies; and women with a history of excessive smoking, alcohol consumption or drug use.

Congenital abnormalities

619. Congenital abnormalities are responsible for 20% of deaths among children aged under one year; they are the second commonest cause of child mortality, with a rate of 3.4 per 1,000 live births, which has remained stable over the past 10 years.

620. Some 70% of these deaths are due to congenital heart disease, abnormalities of the nervous system, and malformations of the digestive apparatus. A large number of these abnormalities are incompatible with life, mainly the ones affecting the nervous system and the digestive apparatus.

621. Heart disease is the problem most susceptible of correction with the knowledge and technology currently available. It accounts for more than a third of all congenital abnormalities and when left untreated has a mortality rate of over 60% in the first year of life, especially in the first three months. Diagnosis must therefore be made early and followed by referral to a specialized unit in good time and under proper conditions.

622. The following are some of the strategies developed to tackle this problem:

(a) Grass-roots education through the provision of information about risk situations: exposure to viruses and to physical or chemical agents; use of drugs or alcohol; and late pregnancy (over age 40);

(b) Development of clinical genetics services at the national level;

(c) Genetic counselling for the population at large;

(d) Training of health personnel in this area;

(e) Detection of genetic risks: family history positive for congenital defects; late pregnancy; abnormal level of alpha foetoprotein during the gestation period;

(f) Optimization and rational use of the existing resources for the treatment of congenital heart disease. To this end 1992 saw the completion of the upgrading of the cardiovascular service at Luis Calvo Mackenna Hospital: remodelling, extension and equipment of the intensive-care unit in order to double the number of surgical interventions.

623. In addition, the following proposal was prepared:

(a) To install equipment in intermediate-level units in hospitals such as Roberto del Río, Gustavo Fricke and Guillermo Grant Benavente in order to increase surgical interventions in very common but relatively uncomplicated pathologies in cooperation with the tertiary hospital;

(b) To establish units for less-complicated surgery (duct surgery, coarctation of the aorta) in some of the regional health services;

(c) To start up a national congenital heart disease programme with an eye to early diagnosis, early and proper referral, and better monitoring and post-operative checks;

(d) To introduce a programme for the treatment of babies born with cleft palate. Congenital abnormalities involving deformities of the upper lip and palate are common in Chile. Their incidence is roughly 1.8 per 1,000 live births; the projection of this rate onto the annual total of births gives an estimate of about 500 new cases a year. In order to address this problem in a comprehensive manner the Ministry of Health, with the collaboration of a group of distinguished experts, devised a programme to meet all the care needs of such children from birth up to age 15. This year (1998) it will begin to transfer resources to facilities accredited for treatment of children with cleft palate.

Diseases of the respiratory apparatus

624. Diseases of the respiratory apparatus constitute the third commonest cause of death among children aged under one year, with a rate of 1.4 per 1,000 live births or 18% of total deaths in this age group. The commonest specific cause is bronchopneumonia (82% of total deaths from these diseases). Although the rate of infant mortality from bronchopneumonia has fallen significantly over the past decade, the decline has not been sufficient and many avoidable deaths still result from this cause. Acute respiratory infections are the primary reason for visits to the doctor and the second commonest reason for under-ones to be admitted to hospital.

625. The action taken to tackle this situation includes:

(a) Grass-roots education of mothers in the recognition of signs and symptoms of serious infection and in the need for prompt medical consultation;

(b) Training of health teams in early diagnosis, proper treatment, and prompt referral of cases with complications;

(c) Assignment of priority to treatment of children exhibiting risk factors: history of low birth-weight, malnutrition, breastfeeding for less than six months;

(d) Development of a national programme for the control of acute respiratory infections among children; the basic strategy consists of grass-roots education and training of health teams. The grass-roots education programme has produced a variety of materials such as simple handbooks, posters, videos and slides. A series of training workshops for health teams has been conducted throughout the country;

(e) Implementation from 1991 of a programme for the out-patient treatment of obstructive bronchitis, under which primary-care facilities throughout the country were provided with the basic equipment and the necessary personnel. This programme has made it possible to deal with this problem on an out-patient basis and thus reduce the demand for hospitalization;

(f) Conduct since 1994 of the "Winter Campaign", which will be carried out 1998 in the health services or regions at greatest epidemiological risk.

Accidents, injuries and poisoning

626. Child mortality due to this group of causes declined in the period 1990-1995 from 2.36 to 1.33 per 1,000 live births. This group constitutes the third commonest cause of child mortality.

627. The following action has been taken to cope with this problem:

(a) The Ministry of Health introduced an accidents control programme, initiating a process of multisectoral training and coordination, particularly in the health, police and fire services to deal with traffic accidents and asphyxiation by drowning;

(b) In the case of traffic accidents, the Ministry has disseminated to the public specific messages during "accident prevention weeks" held in critical periods such as Holy Week and the national and New Year's holidays. There is also an agency called the National Traffic Safety Commission, which draws its membership from nine ministries and the police force.

- **To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care, including:**
  - **The distribution of both general and primary health care services in the rural and urban areas of the country and the balance between preventive and curative health care;**
  - **The measures adopted to ensure a universal immunization system.**

628. The essential aim of health policies is to improve the living conditions of Chile's people and especially of its children, it being understood that health is one of the main pillars of personal well-being.

629. The impact of the vaccination programmes on the people's health is enhanced by the organizational structure of the health system, which facilitates standardization of the vaccination rules, monitoring of the coverage, efficient organization of the cold chain, and appropriate and timely delivery of grass-roots care in the event of the outbreak of an epidemic.

630. Progress in the monitoring and eradication of diseases requires that the country set ever higher and more difficult targets in order to achieve satisfactory vaccination cover and disease monitoring.

631. Progress in child health now means taking up challenges such as "eradication of poliomyelitis", "elimination of measles", "elimination of neonatal tetanus", "elimination of tubercular meningitis", and "elimination of invasive diseases caused by *Haemophilus influenzae b* (HIb)", as

well as the control of other diseases covered by the Action Plan for Children, in order to secure a sustained and permanent reduction of the morbidity and mortality rates.

632. These achievements have demanded great efforts from the health personnel of all the country's establishments and big economic investments by the State.

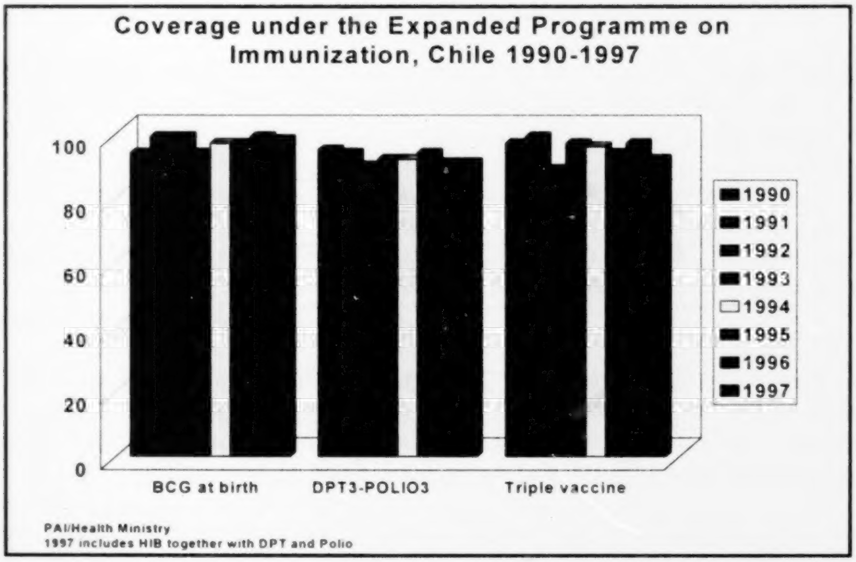
Table 5
Schedule of vaccinations

	Type of vaccine	*Doses*
At birth	BCG	First
2, 4 and 6 months	DPT-polio-HIB	First, second, third
12 months	Triple vaccine	First
18 months	DPT-polio	Booster
4 years	DPT-polio	Booster
First basic (6 years)	Triple vaccine & BCG	Booster
Second basic (7 years)	Toxoid DT	Booster

633. Child vaccination is based on the concept of comprehensive care; this means that every health professional who has contact with a child's mother in connection with any health matter must try to persuade her to attend the vaccination unit and complete the vaccination schedule for the child's age.

634. The vaccination requirements apply to the whole population without exception; people can attend a vaccination unit anywhere in the national territory. There are 1,573 such units (128 are run by the private sector in accordance with the Ministry's regulations) and they have achieved a coverage of 90% or more (see figure 1). The vaccination of new-born babies is strongly influenced by the high rate of professional attendance at childbirth (98% or more).

Figure 1



PAI/Health Ministry
1997 includes HIB together with DPT and Polio

635. Since June 1996 the programme has included HIb vaccination for all children completing the second month of life after that date.

636. In 1992 Chile made a commitment to eliminate measles under the regional strategy of the Americas. April of that year saw the first mass measles vaccination campaign for the whole population aged between nine months and 15 years. A total of 3,854,504 children were vaccinated (a coverage of 99.6%). With a view to attaining the goal of elimination a second campaign targeted on the 1-15 age group was conducted in 1996. A total of 3,985,019 children were vaccinated (100% coverage). The result of this strategy was that Chile had no endogenous cases of measles between April 1992 and July 1997, the month in which, owing to a measles epidemic in Brazil, the disease was transmitted to the susceptible population aged over 20. This caused an outbreak of 58 cases between July and October of that year.

- **To combat disease and malnutrition, including in the framework of primary health care, through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into account the risks and dangers of environmental degradation and pollution; reports should indicate the overall situation, persisting disparities and difficulties, as well as policies to address them, including priorities identified for future action, and information should also be provided, including by gender, age, region, rural/urban area, and social and ethnic origin on:**

    - **The proportion of children with low birth weight;**

637. See paragraphs 610 to 716.

    - **The nature and context of the most common diseases and their impact on children;**

Health problems of the under-10 age group

1. Mental health

(a) Perinatal period

638. Metabolic disorders, malformations, consequences of foetal problems: some two% of children suffer from one or more of these conditions.

639. Disruption of the first bonds: there are no specific studies but estimates put the figure between five and six%.

(b) Breastfeeding period

640. Development problems: 16% of children aged under two years present retarded psychomotor development.

(c) Preschool period

641. Autism and other psychoses: 15 per 10,000 children.

642. Developmental problems: 40% of children aged between two and five years from poor backgrounds present some degree of retarded psychomotor development.

643. Injuries and poisoning: 43% of deaths among children aged between one and four years are due to these causes, which are associated with poor family conditions and inability of children to care properly for themselves; physical maltreatment may also be involved here.

644. Maltreatment: five% of children are subject to some degree of maltreatment; more than 50% of the most severely maltreated children are aged under six.

(d) School period

645. Mental health problems in general: 15% of schoolchildren in the Metropolitan region present mental health problems.

646. Mental deficiency: 2.5% of children.

647. Profile of the incidence of mental health problems among schoolchildren (1993 study on mental health in schools):

- Attention deficit: 14.6%
- Emotional disturbances: 5.8%
- Behavioural disturbances: 4.8%
- Non-organic enuresis: 7.9%

648. Profile of the incidence of psychosocial problems among schoolchildren:

- Abnormal circumstances or quality of upbringing: 14.3%
- Mental disorders in parents: 9.5%
- Serious events affecting their lives: 7.9%
- Physical maltreatment: 6.4%, according to the parents

649. Maltreatment: teachers suspect some kind of maltreatment in five% of pupils in the first grade.

650. Developmental problems:

- Learning disabilities: 40%
- Poor language skills: 2%

2. Nutrition

651. The epidemiological profile of nutritional problems is in a transitional stage. Child malnutrition has shown a very favourable trend, but there are still highly vulnerable communes with above-average malnutrition figures, coinciding with a greater deterioration in the economic and environmental conditions which produce lower birth-weight and increased infant mortality.

652. The overweight and obesity rates for the whole population have been in an upward trend over recent years.

653. In addition to malnutrition itself there are other nutritional problems such as small size and micronutrient deficits: iron, zinc and copper.

3. Acute respiratory infections (ARI)

654. Acute respiratory infections are the principal cause of late infant mortality. They are also the leading reason for medical consultations and hospital admissions among children. They are the second commonest cause of death in the 1-4 age group, being responsible for 12% of total deaths.

655. Although a large proportion of cases are self-controlled infections of viral origin for which there are currently no preventive treatments or effective cures, there is group of children at high risk of serious bacterial infection leading to a rapid aggravation of an acute respiratory infection and risk of death. This group includes infants aged under six months with a history of low birth-weight, malnutrition or congenital malformation.

656. Pneumonia is responsible for 90% of total deaths from acute respiratory infections among children aged under one year, and obstructive bronchitis syndrome is the principal reason for hospital admissions under this heading.

4. Accidents and violence

657. Accidents and violence are the leading cause of death in the 1-9 age group, accounting for 44% of total deaths.

658. The various kinds of accident occur with varying frequency depending largely on the sex of the child (boys are notoriously more accident-prone than girls) and on age. In under-ones the principal cause is suffocation, followed by falls and poisoning. From age one to four the commonest causes of death are traffic accidents as pedestrian or passenger, scalds and burns, electrification (via sockets), drowning, falls and poisoning. Between five and nine years traffic accidents, injuries from falls, and drowning figure prominently. Deaths from accidents are significantly under-recorded, and it is important to improve the reporting system.

659. Accidents to children have a big impact in the economic sphere and on social development, for they involve major costs in terms both of assistance and care and of the number of years of production lost either through stays in hospital or through temporary or permanent incapacity to work.

5. Congenital abnormalities

660. Congenital abnormalities are responsible for some 28% of deaths among under-ones and constitute the second commonest cause of child mortality with a rate of 3.35 per 1,000 live births, which has remained relatively stable over the past 10 years. They are the third commonest cause in the 1-4 age group, accounting for about 10% of total deaths.

661. About 70% of deaths among under-ones are caused by congenital heart disease, abnormalities of the nervous system and malformations of the digestive apparatus. A large proportion of these abnormalities are incompatible with life, mainly the ones affecting the nervous system and the digestive apparatus.

662. Heart disease is the problem most susceptible of correction with the knowledge and technology currently available; it accounts for more that a third of total congenital abnormalities and left untreated has a mortality rate of over 60% in the first year of life, especially in the first three

months; it must therefore be diagnosed early and referred to a specialized unit promptly and under proper conditions.

663. Chronic diseases among children have emerged in the present decade as a major problem for Chile. It appears imperative to develop over the coming years healthy lifestyles from infancy and childhood which will lead in the future to healthy adults and the consequent well-being of the whole family. There is abundant evidence that many of the problems of chronic illness among adults originate in childhood and adolescence.

664. The following are the main dental problems affecting children:

(a) Dental caries: this is the commonest pathology in dental health. It is an infectious disease which increases progressively with age and is determined by dietary and hygiene habits and by the environment. According to a study on caries and fluorosis carried in the country's 13 regions in 1996-1997, the incidence of dental caries was 87.79% among children aged six to eight and 86.06% among 12-year-olds, with an average of 5.46 affected teeth in the first group and 3.78 in the second.

(b) Dento-maxillary abnormalities: these affect a large number of children. A 1981 study of oral problems and treatment needs among children aged under six found abnormalities in 32% of cases which could be prevented or checked. A 1995 study carried out in the southern health service of the Metropolitan region, among five-year-olds from the middle and lower-middle socio-economic classes, found that about 70% of the preschool children examined presented one or more dento-maxillary abnormalities. The treatment of these pathologies is deeply desired and sought after by the beneficiary population.

(c) Gingival and periodontal diseases: these affect the supporting and protective tissues of the teeth and are directly related to cleaning habits. A study carried out in 1987 in the Metropolitan region among schoolchildren in the 6-8 age group found a gingivitis rate of over 96%. A national study in 1992 found gingivitis in 41.1% of 12-year-olds.

(d) Dento-alveolar damage: there are no national epidemiological studies, but research in a small district in region IV in 1994 found that 13.7% of the children aged 7 to 14 examined had upper front teeth broken by accidents. The dental statistics of the primary-level emergency dental services show that five% of visits to the dentist are due to dento-alveolar damage.

665. The main public health measures adopted to check and reverse this serious situation are addressed in the basic dental health plan drawn up for the decade in 1990. In step with the implementation of the plan's seven programmes, the following strategies have been applied to the child population:

(a) Promotional programme

666. In response to the need to take preventive measures in good time and to promote the formation of healthy dental habits, the periodic monitoring of dental health has been incorporated in the monitoring of healthy children conducted in the establishments of the National System of Health Services.

667. The professionals of the children's health teams are trained in how to encourage mothers to attend to the dental health of their small children and to refer children at risk promptly to a dentist. The topics covered include restriction of intake of foods containing sugar, prevention of dysfunctional sucking habits, formation of the habit of effective dental hygiene, and proper use of fluorides.

668. The campaign "Brilliant smiles, brilliant futures" was carried out in 1996 with the support of private enterprise and reached 5,000 schoolchildren. This coverage was increased to 23,000 children in basic education in 1997, with the participation of 120 schools in the Metropolitan region and regions V and X and 70 national health dentists representing 60 practices in 52 communes. The children received dental hygiene kits, educational materials and videos. This campaign forms part of the Commitment of the Americas signed by the First Lady in Paraguay in 1995.

(b) Prevention programme

669. The main public health measure for prevention of dental caries is the fluoridization of drinking water, the major benefits of which are seen in children subject to it from birth. It is hoped that this measure will reduce the incidence of dental caries among children by between 40 and 60%. Region V has had this national programme since 1985 and the city of Chuquicamata since 1990; it was implemented in 25 communes of the Metropolitan region in 1996. The Teno district was brought into the programme in 1997. The current year has seen the initiation of the fluoridization of drinking water in the city of Valdivia in region X and in three small districts in region VII. Some 40% of the population is now protected by this practice, and the goal is to cover 50% by 2000.

670. Since 1992 a national weekly fluoride mouthwash programme has been operating for children in grades one to eight in municipal and grant-supported private schools in all areas lacking natural or artificial fluoridization of drinking water. In 1997 the coverage of mass programmes of topical anti-caries measures was 84.6%, representing a total of 797,938 schoolchildren. It is expected that this specific prevention measure will reduce the damage caused by caries in schoolchildren by 30 to 35%.

(c) Education programme

671. Three% of the hours spent on dental care in the National System are dedicated to educating the population, especially preschool and older children, in the formation of healthy habits of dental self-care.

(d) Health services programme

672. Since 1990 the National System's dental programme has given programme priority to the child population, allocating 60% of available resources to this age group.

673. In 1994 an implementation commitment was signed by the Ministry of Health and the health services for an increase in specific individual prevention measures in the dental care of children in order to signal a positive attitude to the preventive approach to dental care. An implementation rate of 47.8% of total dental work was achieved in 1997, at all levels of care, for specific prevention measures in the 0-9 age group.

(e) Human resources programme

674. In order to provide a better response to problems of dento-maxillary abnormalities in children, training courses in the prevention of these abnormalities have been run since 1994 for primary-care dentists with the collaboration of the dental faculty of the University of Chile. This training will help to augment the capacity of children's dentists to solve dental problems by intercepting and preventing these pathologies affecting children's functioning and appearance.

(f) Research programme

675. Two national studies were conducted in 1996 and 1977: "Caries and fluorosis in children aged six to eight and 12 years" commissioned by the Ministry from teachers at the dental faculty of the University of Chile; and "Fluoride excretion in urine and use of tooth paste and other sources of fluoride in preschool children" carried out by teachers at the Institute of Nutrition and Food Technology and teachers at the dental faculty.

- **The proportion of the child population affected by malnutrition, including of a chronic or severe nature, and lack of clean drinking water;**

676. It must be pointed out that 84.3% of the country's population lives in urban communities of more than 5,000 inhabitants, 95.3% of which have naturally safe or treated drinking water and a satisfactory human-waste disposal system. Furthermore, 90% of urban housing has piped drinking water in the home, a factor which has produced a big reduction in the problem of diarrhoea. Despite the progress made, an analysis of the national rates shows marked differences throughout the country and that child mortality tends to be two or three times higher in poorer communes.

677. The Government has set the following targets with respect to child malnutrition:

(a) To reduce the number of pregnant women presenting a nutritional deficit by 20%;

(b) To reduce child malnutrition in communes with rates higher than the average;

(c) To promote a normal nutritional state in order to prevent overweight and obesity;

(d) To reduce the incidence of low birth-weight by at least 20%;

(e) To increase the proportion of children receiving natural food at age six months to 60%;

(f) To cut by 50% the incidence of iron-deficiency anaemia in breastfeeding mothers;

(g) To cut by 50% the incidence of iron-deficiency anaemia in pregnant women;

The following strategies have been proposed for the attainment of these targets:

(h) To modify the type of food supplied under the national food supplement programme (PNAC);

(i) To introduce new targeting criteria for the PNAC;

(j) To reduce the number of high-risk pregnancies;

(k) To strengthen the programmes on encouragement of breastfeeding, with special emphasis on the education of mothers;

(l) To ensure compliance with the international code for the marketing of mother's milk substitutes;

(m) To strengthen educational activities in matters connected with diet and nutrition.

678. Child malnutrition in the population monitored by the National System of Health Services fell from 15.5% (SEMPE) in 1975 to 8.8% in 1982, since when it remained stable up to 1989 before falling again to 6.9% in 1991, when most of the children affected were suffering from slight malnutrition. In 1993 the reference model was switched to the comprehensive NCHS diagnosis.

679. With regard to the age factor, it is observed that breastfed babies aged under five months in the monitored population are less likely to suffer from low weight for age, whereas the incidence is higher in the 12-23 month age group.

680. The 1996 figures showed that malnutrition affected 0.6%, borderline malnutrition three%, overweight 15.5%, and obesity 6.2% of the under-sixes.

681. Maternal malnutrition has an overall average of 25.4% in the population monitored by the health services, with sharp variations between regions and communes.

682. The PNAC is designed to prevent and reduce the nutritional deficit among under-sixes, pregnant women and nursing mothers; it also helps to reduce child morbidity and mortality associated with malnutrition and encourage breastfeeding and compliance with other health promotion and protection measures.

683. The provision of food is the main PNAC activity but this work is determined by the monitoring of children's health (physical development, psychomotor stimulation, immunizations, education for health, etc.). This measure has helped to maintain the incentive for mothers and children to undergo health checks and has extended the Programme's scope far beyond the mere supply of food supplements.

684. The PNAC has two subprogrammes:

(a) The basic subprogramme supplies food for any child or pregnant woman who undergoes the Ministry's health checks;

(b) The back-up subprogramme supplies larger quantities of food to persons identified during these checks to be at risk of malnutrition or providing insufficient nutrition for a child. The type and quantity of the food supplied in each case depends on the child's age (details will be found in the table in the annex). The Programme provides basic milk food for all beneficiaries; pregnant women and children aged under two years receive powdered milk (equivalent to 20 litres a month) and children aged two to six receive a product containing 45% milk.

685. The National Breastfeeding Commission was established in 1991 for the main purpose of promoting, protecting and supporting the practice of breastfeeding in accordance with the principles proposed by UNICEF. This Commission is made up of scientific and voluntary organizations, NGOs, and representatives of the Health Ministry and the National Consumers' Service. There was a significant increase in exclusive breastfeeding from 32.3% in 1993 to 45.3% in 1997.

686. The breastfeeding policy has also managed to secure the attendance of fathers at the birth of their children in public maternity wards. This initiative has been extended to the primary-care consultation offices, which are subject to system of accreditation validated by UNICEF. Efforts are currently being made to involve nurseries and kindergartens in the support of breastfeeding mothers who work outside the home.

687. Another important factor in the advances made in the health situation has been the increased coverage of basic sanitation systems (drinking water and sewerage). Ninety% of urban dwellings

have piped drinking water in the home, and this has led to a significant reduction in the problem of diarrhoea. Despite the progress made, an analysis of the national rates shows sharp differences throughout the country, with child mortality tending to be two or three times higher in poor communities.

688. The PNAC has carried out the following measures:

(a) Modification of the food-distribution plan;

(b) Revision of the indicators for evaluation of nutritional status;

(c) Strengthening of educational activities;

(d) Establishment of the National Breastfeeding Commission, which has working groups on:

- An information system on the prevalence of breastfeeding;
- Production of educational materials and revision of standards;
- Legislation on women's work and code on the marketing of mother's milk substitutes;
- Child-friendly hospitals.

- **The children provided with adequate nutritious food;**
- **The risks from environmental pollution and the measures adopted to prevent and combat them.**

- **To ensure appropriate prenatal and post-natal health care for mothers, indicating the nature of services provided, including appropriate information given, the coverage ensured, the rate of mortality and its main causes (average and disaggregated, inter alia, by age, gender, region, urban/rural area, social and ethnic origin), the proportion of pregnant women who have access to and benefit from pre□ and post-natal health care, trained personnel and hospital care and delivery;**

689. There have been important changes in maternal mortality in Chile over the past 30 years. Deaths have fallen sharply from a rate of 30 per 10,000 live births in 1960, which in absolute terms meant a loss of 938 lives. In 1996, for example, there were 64 maternal deaths, a rate of three per 10,000 live births,

690. The structure of maternal mortality has also changed. Although abortion remains the leading specific cause of death, its rate declined significantly from 39 per 10,000 live births in 1977 to six in 1995.

691. However, the decline in deaths from abortion is attributable to a combination of a real drop in the number of abortions, use of family planning services, reduction in the number of undesired pregnancies, and the reduced risk of death from abortion itself resulting from an open policy of early treatment of complications and improved care in the health services.

692. Abortion is prohibited by law in Chile, so that all abortions are either secret or disguised as treatment for other ailments - a situation which does not always facilitate early attention to complications.

693. The decline in maternal mortality from other causes is due to the increase in professional attendance at childbirth from 67% in 1960 to 99.6% in 1996 and to the antenatal checks carried out under the women's health programme of the Ministry of Health.

694. The high rate of professional attendance at childbirth has generated a second source of information for studies of maternal deaths in Chile. In addition to the information provided by death certificates, since 1984 the Ministry has kept an audit record of deaths for analysis; this has helped to correct the under-recording of maternal deaths in the Civil Register. In 1993 it introduced a computerized perinatal data system, which has led to significant improvement in the provision of timely information for the management of the programme.

695. The second commonest causes of maternal mortality are hypertension syndrome in pregnancy and toxaemia, which have proved resistant to the measures taken for their control.

696. Other still-important causes of death are puerperal infections and sepsis, which are associated mainly with complications from premature membrane rotation and in-hospital infections resulting from surgery.

697. Other causes such as childbirth haemorrhages and injuries are now rare, for they are avoided when the birth is attended by professionals in appropriate locations.

- **To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents; in this regard, information should also be provided on:**

  - **Campaigns, programmes, services and strategies and other relevant mechanisms developed to provide basic knowledge, information and support to the general population, in particular to parents and children;**

  - **The means used, particularly in relation to the areas of child health and nutrition, the advantages of breast-feeding and the prevention of accidents;**

  - **The availability of safe sanitation;**

  - **The measures adopted to improve the system of education and training of health personnel;**

  - **Disaggregated data, including by age, gender, region, rural/urban area, social and ethnic origin.**

698. The National Breastfeeding Commission was established in 1991; its main function is to promote, protect and support the practice of breastfeeding in accordance with the principles proposed by UNICEF. The Commission is made up of scientific and voluntary organizations, NGOs, and representatives of the Ministry of Health and the National Consumers' Service. There has been a significant increase in exclusive breastfeeding from 32.3% in 1993 to 45.3% in 1997.

- **To develop preventive health care, guidance for parents and family planning education and services; in this regard, reports should also provide information on:**
  - **The policies and programmes developed, as well as services available;**
  - **The population covered, including in rural and urban areas, by age, gender, social and ethnic origin;**
  - **The measures adopted to prevent early pregnancy and to take into consideration the specific situation of adolescents, including provision of appropriate information and counselling;**
  - **The role played by the education system in this regard, including in the school curricula;**
  - **Disaggregated data on the incidence of children's pregnancy, including by age, region, rural/urban area, and social and ethnic origin.**

699. The structure of Chile's population has changed, and the middle section of the pyramid (the 25-29 age group) has widened. This change reduced the proportion of under-15s from over 40% in 1960 to 29.5% in 1995.

700. Family planning was incorporated in the perinatal maternal health programme in 1967 in order to combat complications arising from induced abortion. This work is done mainly by midwives, and 40% of the resources available for primary care under the programme are devoted to it. The method preferred by the public is IUD (Tcu 380), which is used by 80% of the women monitored. The system monitors the family planning of 16% of women of childbearing age who use the National System of Health Services, but it is estimated that about 57% of women of childbearing age use some method of birth-control but they are not all monitored by the Health System.

701. Good results in increasing the coverage of professional attendance at childbirth in rural areas have been achieved by the introduction over the past 10 years or so of a pregnancy hostel to take in women from isolated rural areas before confinement and then again following their discharge from hospital; they receive professional care in the hostels and are more accessible for educational work.

702. The women's health programme was updated and republished in 1997, and the approach of the former perinatal maternal health programme was expanded to include a gender dimension. The present programme gives priority to preventive measures and the consolidation of activities in some still-problematic areas such as teenage pregnancy and induced abortion. It also introduced some qualitative changes such as more person-friendly obstetrical care and the involvement of fathers in the childbirth process.

703. The illiteracy rate among women of childbearing age was 4.8% in 1996. Eighty-three% of mothers had completed four or more years of schooling. This level of schooling, regarded as fairly high, facilitates education through the written media among the population at large and mothers in particular.

Fertility

704. A total of 278,729 children were born in 1996, representing a gross rate of 19.3 live births per 1,000 inhabitants. This figure has fallen slightly in recent years from a stable rate of about 22 per 1,000. The gross fertility rate is 2.5 children per woman. The specific distribution by age

has changed over the past 20 years. Births to women aged under 20 have undergone a relative increase to a rate of 14% of total births registered in 1997.

705. Women's reproductive pattern has also changed: fertility fell from an average of 4.9 children per woman 1965 to 2.5 in 1995. The first and second babies are closely spaced in 71% of cases, and most babies are delivered to young women (women aged 20 to 29 account for 60% of live births).

706. Changes in the birth rate and in family size are closely associated with the improved education standards of women and their more extensive participation in the labour force.

707. The decline in the birth rate over the past 25 years is attributable largely to education of the general population in responsible parenthood and to the accessibility of the family planning services included in the Ministry's programme of maternal and perinatal health since 1976 and in the present women's health programme since 1995.

708. According to the estimates of the National Institute of Statistics, by 2000 Chile's population will total 15,272,000. It is also estimated that the ratio of urban to rural dwellers will be maintained. In the light of these estimates the recently revised family planning policy is to increase the people's access to the services and work on the assumption of internal migration to medium-sized towns.

709. There is no gender differentiation in preventive health measures. Male and female adolescents may attend the Ministry's consultation facilities without any differentiation except in places where the comprehensive health programme for adolescents is still being introduced; this programme was created in 1996 but its establishment is taking time.

710. The provision of family planning services remains a controversial issue. All that exists in legal terms is ancient regulations which have lost all force. These pre-1973 regulations provide that adolescents are entitled to request means of contraception and family planning advice provided that they are accompanied when so doing by their parents. It will be readily understood that this does happen in practice because young people requesting contraceptives do not usually want their parents to know about it. This service is currently subject to the discretion of doctors and midwives.

711. As in the case of adolescents, advice and education for parents depends on whatever individual schools and colleges do by way of sex education.

712. However, since 1995 the Government has been running an intersectoral programme on prevention of adolescent pregnancies which conducts discussion sessions on emotional relations and sexuality (JOCAS) in various of the country's schools. The subject of planning the spacing of children usually comes up during the discussion, and the teachers give the advice requested by the students. These sessions are a voluntary option for schools and are held with the consent of the governors and the parents' centres. They are not imposed. If a school does not wish to hold them, they are not held.

713. Nevertheless, one of the consequences of the sessions has been to raise the profile of these topics in society and increase people's awareness of them as matters which must be discussed. There is a perception of initiating a process - one of the aims of the intersectoral programme and the Intersectoral Commission - which will lead eventually to formal public policies on adolescents and their emotional and sexual development.

714. At the same time the Ministry of Education is proposing as a fundamental objective and as a component of the minimum curriculum that schools should introduce sex education programmes.

715. Lastly, with regard to the incidence of adolescent pregnancy, according to data from the National Institute of Statistics, 14.6% of live births in 1995 were to women and girls aged under 20.

716. Attention may be drawn to other interesting data:[20]

- First sexual activity: age 15 to 16;
- Knowledge of contraceptives: males 77%, females 72%;
- Use of contraceptives (percentages):

	Never	*Sometimes*	*Frequently*
Males	40.3	35.7	24.0
Females	35.5	26.5	38.0

96. Please indicate the prevalence of HIV/AIDS and the measures adopted to promote health information and education on HIV/AIDS among the general population, special groups at high risk and children, as well as:

- **The programmes and strategies developed to prevent HIV;**
- **The measures adopted to assess the occurrence of HIV infection and AIDS, among both the general population and children, and its incidence inter alia by age, gender, rural/urban area;**
- **The treatment and management provided in case of HIV infection and AIDS among children and parents, and the coverage ensured nationwide, in urban and rural areas;**
- **The measures adopted to ensure an effective protection and assistance to children who are orphans as a result of AIDS;**
- **The campaigns, programmes, strategies and other relevant measures adopted to prevent and combat discriminatory attitudes against children infected by HIV or with AIDS, or whose parents or family members have been infected.**

717. The most recent study, conducted in 1996-1997 among pregnant women, found a prevalence of HIV/AIDS of 0.1% in the Metropolitan area and zero% in region VIII. These low rates place Chile, according to the international classification, in the category of countries with a low-transmission epidemic.

718. A methodological proposal has been constructed on the basis of three levels of prevention:

(a) For the population at large: mass information campaigns which take into account the epidemiological information and the people's level of knowledge and its requirements;

(b) At the grass roots: intersectoral prevention projects in the three regions with the highest rates, as well as community discussion sessions on emotional relations and sexuality;

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[20] Data from research conducted by UNICEF-Chile/SERNAM in 1995.

(c) For individuals whose lifestyle places them at risk: prevention programmes using peer counselling and pro-active, participatory and face-to-face methods.

719. In the case of children, intersectoral action was taken to formulate the Education Ministry's policy on sex, and sex education programmes suited to the characteristics of the various schools were introduced. The Ministry encourages the holding of the intersectoral discussion sessions on emotional relations and sexuality (JOCAS), which encourage debate of this topic in the school community.

720. Educational materials on emotional relations, sexuality and HIV/AIDS have been produced specifically for children, adolescents and young people; they are tailored to the recipients' age and urban or rural location.

721. With regard to information, the survey to evaluate the impact of HIV/AIDS prevention work in five countries of Latin America (PAHO/CONASIDA, 1996) revealed a high level of knowledge among the public: 98.1% of persons aged 15 to 49 were aware of two or three effective methods of preventing transmission.

722. The strategy devised as a response to the HIV/AIDS problem envisages the creation and operation of a national commission chaired by the Health Ministry, which will be responsible for coordinating the activities of the various State agencies involved, NGOs, and other organizations working in this area by means of an intersectoral approach which will implement the proposals effectively and make good use of the available resources. Various kinds of programme are being elaborated; some of them are described in the preceding paragraphs.

723. No assessment is made of the incidence of HIV infection in a country with such a low rate as Chile.

724. The incidence of AIDS cases is measured by means of (compulsory) notification in both public and private sectors. Assessments are made of awareness (proportion of known cases in total cases) and of time lag (between diagnosis and notification).

725. The awareness rate was 85.1% in 1996 (the last for which Civil Registry figures are available) according to death certificates.

726. The time lag as calculated by means of statistical correction programmes is minimal. This has been corroborated by press investigations in Mexico.

727. The first case of AIDS was notified in 1984; by June 1998 2,431 cases had been notified in the country's 13 regions. A total of 1,558 deaths has been notified. The cumulative incidence of AIDS in Chile (total cases since the onset of the epidemic) is 18.4 per 100,000 inhabitants.

Geographical distribution

728. Highest cumulative rates: Metropolitan region (32.8%); region V (26.0); region II (14.6); and region I (7.8). The cases have occurred chiefly in urban communes, but began to appear in rural communes in 1990.

Sex

729. Males account for 90.8 and females for 9.2% of AIDS cases. But the rate is increasing faster among females for all means of transmission (sex, blood, intravenous injection of drugs). This is reflected in the ratio of male to female cases: the gap has narrowed over time to 7.3:1 in 1996.

Age

730. Most of the cases (84.7%) occur in the 20-49 age group. Persons aged under 20 account for 3.1% and over-50s for 12.2%.

Mother-to-child transmission

731. Such cases account for 1.8% of the total. The cumulative rate (since the onset of the epidemic) of HIV transmission from seropositive mothers to their children is 27%.

Paediatric cases

732. Under-15s account for two% of total cases, and in 86% of these cases the virus was transmitted from mother to child.

733. HIV/AIDS victims are treated in the existing public or private facilities depending on their insurance arrangements. An effort is made to provide full coverage for anti-retroviral treatment and for treatment of opportunistic illnesses affecting children covered by public-sector insurance. Drugs to reduce mother-to-child transmission are supplied free of charge regardless of the pregnant woman's insurance cover. Sixty% of adult cases in which anti-retroviral treatment is indicated are treated.

734. The HIV/AIDS problem is concentrated in urban areas, and this is where the treatment is provided.

735. There is a policy of permanent training of health personnel, for the problem is a dynamic one and requires innovative responses in both its biomedical and psychosocial aspects.

736. The policy is to promote protection in the family and to avoid uprooting orphaned children or encouraging their placement in institutions. Some few cases involving serious social problems are referred to homes run by religious institutions.

737. Prevention goes hand in hand with non-discrimination at all the levels of intervention described above.

738. Special efforts have been made with the education sector to ensure that seropositive children attend school at both pre-basic and basic levels.

97. Please provide information on the measures adopted pursuant to article 24, paragraph 3, with a view to abolishing all traditional practices prejudicial to the health of children, particularly girls, or otherwise contrary to the principles and provisions of the Convention, (for example, genital mutilation and forced marriage). Reports should also indicate any assessment made of traditional practices persisting in society that are prejudicial to children's rights.

739. These types of practice are not found in Chile.

98. Information should also be provided on the measures adopted pursuant to article 24, paragraph 4, to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in this article, and the particular consideration given to the needs of developing countries. Reports should inter alia indicate the activities and programmes developed in the framework of international cooperation, including at the bilateral and regional levels, the areas addressed, the target groups identified, the financial assistance provided and/or received and the priorities considered, as well as any evaluation made of the progress achieved and of the difficulties encountered. Mention should be made, whenever appropriate, of the involvement of United Nations organs and specialized agencies and non-governmental organizations.

740. In the case of the activities of the health sector itself, some research indicates that more than half of the decline in infant and child mortality is associated with the expansion of and the coverage provided by the health services. Chilean children are born in hospital and receive professional care in more that 99% of cases, a situation which brought mortality in the first 28 days of life down to 6.3 per 1,000 live births by 1996. Similarly, the coverage achieved by the expanded programme on immunization has been a factor in the reduction of morbidity and mortality due to diseases preventible by immunization: measles, whooping cough, tuberculosis, diphtheria, tetanus, and poliomyelitis, which has been eradicated from Chile.

741. The national supplementary food programme is designed to prevent and reduce nutritional deficits among under-sixes and pregnant and nursing women, and it also helps to reduce child morbidity and mortality associated with malnutrition and to encourage breastfeeding and compliance with other health promotion and protection measures.

742. Although the provision of food is the programme's main function, its work is determined by monitoring (physical growth, psychomotor development, immunizations, education for health, etc.). This approach has helped to maintain the incentive for mothers and children to undergo health checks and to extend the programme's work far beyond the exclusive provision of food supplements.

C. Social security and child care services and facilities (articles. 26 and 18, para. 3)

99. With respect to article 26, please provide information on:

- **The measures adopted to recognize for every child the right to benefit from social security, including social insurance;**
- **The necessary measures taken to achieve the full realization of this right in accordance with the national law;**
- **The manner in which the benefits granted take into account the resources and the circumstances of the child and of the persons having responsibility for his or her maintenance, as well as any other considerations relevant to an application for benefits made by or on behalf of the child.**

100. Reports should also indicate the legal provisions relevant to the implementation of this right, the circumstances under which children themselves are allowed to apply for social security measures, either directly or through a representative, the criteria taken into account to grant the benefits, as well as any relevant disaggregated information concerning the coverage and financial implications of such measures, its incidence by

age, gender, number of children per family, civil status of the parents, the situation of single parents, and the relationship of social security to unemployment.

743. Chile's social security system provides the following benefits for children:

(a) Family allowances

744. Article 3 of Decree-Law n° 150 of 1974 establishes that the following persons, amongst others, give rise to an entitlement to family allowances: unmarried children and adopted children aged up to 18 years who are pursuing regular courses of secondary, teacher-training, specialized technical or higher education in State or State-recognized institutions.

745. This entitlement may also arise in respect of unmarried grandchildren and great-grandchildren orphaned of their father or mother or abandoned by them and unmarried orphans or abandoned children aged up to 18 years who are pursuing regular courses of secondary, teacher-training, specialized technical or higher education in State or State-recognized institutions, as well as persons incapable of working who are housed in State institutions or institutions recognized by the State.

746. The age limits specified for these persons giving rise to entitlement do not apply to the disabled.

(b) Educational insurance

747. Persons having the status of regular pupil or student in State or private institutions at the transitional level from nursery education or in basic, secondary, teacher-training, technical, agricultural, commercial or industrial schools, vocational institutes, technical training schools or universities dependent on the State or recognized by the State are covered against any accidents that they may suffer in the course of their education or the exercise of their vocational skill.

748. The following benefits are provided free of charge until the condition is completely cured or for as long as symptoms caused by the accident persist:

- Medical, surgical and dental treatment in medical facilities or at home;
- Hospital care, if needed in the opinion of the attending practitioner;
- Medicines and other pharmaceutical products;
- Prostheses and orthopaedic appliances and their repair;
- Physical rehabilitation and vocational re-education;
- Costs of travel and any other associated necessity.

749. This educational insurance is established in article 3 of Act n° 16,744 and regulated by Supreme Decree n° 313 of 1973 of the Ministry of Labour and Social Security.

(c) Family allowance in respect of poor persons

750. Act n° 18,020 establishes a family allowance in respect of poor persons.

751. Entitlement to this allowance may arise in respect of children aged under 18 and persons of any age incapable of working but living at the recipient's expense, who attend, when appropriate, the children's health programmes established by the Ministry of Health and who do not have an income equal to or greater than the amount of the allowance, regardless of the source of such income.

752. This allowance is doubled when paid in respect of persons incapable of working.

101. Please indicate the measures adopted pursuant to article 18, paragraph 3, and taking into account the provisions of articles 3, 6 and 12 of the Convention, to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. In this regard, reports should inter alia provide information on the legislation adopted to recognize this right and ensure its realization, as well as on the coverage with regard to services and facilities, by region and by urban and rural areas, as well as on their financial implications and on the children benefiting from such measures, including by age, gender and national, social and ethnic origin.

753. Articles 203 to 208 of the Labour Code (Decree-Law nº 1 of 1994 of the Ministry of Labour and Social Security) contain the following provisions:

(a) Establishments employing more than 20 female workers, regardless of their age or civil status, must maintain rooms adjoining but separate from the work areas, where women may feed their children aged under two years and leave them while they are at work. Moreover, pursuant to the sole article of Act nº 19,408 a similar obligation is imposed on shopping or commercial centres or complexes administered under a single trade name or juridical personality when the establishments located there together employ 20 or more female workers. In the latter case the extra costs entailed by the nursery room are regarded as common costs to which all the establishments must contribute in the same proportion as to other costs of this nature.

(b) The hygiene and safety conditions in such nursery rooms are regulated by Supreme Decree nº 289 of 1989 of the Ministry of Health;

(c) In the case of establishments in the same geographical area, subject to a favourable prior report by the National Kindergarten Board the employers may construct or install and maintain common nursery services for the children of all their female workers;

(d) An employer is understood to be in compliance with the obligation to provide nursery facilities if he pays the costs thereof directly to the establishment to which the women workers bring their children aged under two years, which must have an authorization from the National Kindergarten Board;

(e) In the case of the construction or installation of a nursery room the owners of the establishments concerned must first submit their plans for approval to the technical committee of the national school buildings plan of the Ministry of Education;

(f) The cost of maintaining a nursery room is borne exclusively by the employer, who must appoint a competent person to look after the children; such person must preferably hold a nursing auxiliary certificate issued by the competent authority;

(g) For the purpose of feeding their children working mothers are entitled to two time slots which together do not exceed one hour per day and are regarded as time worked and remunerated accordingly. This right may not be waived;

(h) It is the responsibility of the National Kindergarten Board and the Labour Department to regulate and supervise compliance with the rules on the protection of child labour. Any one may report to these bodies any infringements of these rules which come to their notice;

(i) Such infringements are punished by a fine of 14 to 60 monthly tax units; the fine is doubled if the offence is repeated.

102. Reports should also provide information on the progress achieved in the implementation of these rights, the difficulties encountered and any targets identified for the future.

D. Standard of living
(article 27, paras. 1-3)

103. Please provide information on:

- **The measures adopted to recognize and ensure the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development;**

754. See chapter I, guidelines 20, 22, 23 and 27.

- **The relevant indicators used to assess such an adequate standard of living, and its incidence among the child population, including by gender, age, region, rural/urban area, social and ethnic origin, and family situation;**

755. Most of the indicators used by the various social sectors to evaluate individual standards of living are the ones traditionally used for the quantitative measurement of the extent or incidence of phenomena: child mortality, malnutrition, coverage of elementary education, rates for repeated years and drop-outs, etc.

756. In 1996 Chile hosted the third American Ministerial Meeting on Children and Social Policy, which concluded with the adoption of the "Santiago Agreement", a document which sets targets for children and social development to be attained by 2000. It requires States, in addition to producing quantitative analyses of the targets, to devise more sophisticated indicators for assessing progress towards their attainment.

757. In order to verify compliance with these targets the Government of Chile produced a detailed report, requested by the ad interim Executive Secretary; this document will be submitted to the sixth Ibero-American Summit of Heads of State and Government.

758. Some of the indicators included in this report relate to such matters as health and nutrition, reduction of child mortality, vaccination programmes, promotion of children-friendly hospitals and doctor's offices, universal access to education without discrimination of any kind, reduction of illiteracy and of repeated-year rates in the first few school grades, etc.

759. With regard to gender equity, the approach now is to disaggregate data by sex, a change which can clearly help to identify problems and needs during the elaboration and targeting of social policies.

760. More recently, since mid-1998 in fact, work has been proceeding under a UNICEF-MIDEPLAN agreement on the production of a bulletin of indicators specific to children. This work has been based on the technical input of professionals from MIDEPLAN, UNICEF and the National

Institute of Statistics. When the analysis so requires, contributions are sought from expert professionals in the various social sectors.

761. In its preliminary analysis the bulletin deals with the situation of children with respect to the rights set out in the Convention rather than with the various services to which they have access.

- **The criteria established to assess the ability and financial capacity of parents or others responsible for the child to secure the living conditions necessary for the child's development, as well as to identify those conditions;**

762. Chile has not laid down formal criteria for assessing the ability and financial capacity of parents to secure the living conditions necessary for their children's development.

- **All the measures taken, in accordance with national conditions and within the State party's means, to assist parents and others responsible for the child to implement this right, including the nature of the assistance made available, its budget implications, its relation to the cost of living and its impact on the population; where relevant, the information provided should be disaggregated, inter alia by region, rural/urban area, age, gender and social and ethnic origin;**

763. See paragraphs 743 to 752 above.

- **The measures adopted to provide, in case of need, material assistance and support programmes, particularly with regard to nutrition, clothing and housing, indicating, inter alia, the nature of such assistance and programmes, the population addressed by them, including by gender, age, rural/urban area, social and ethnic origin, the proportion of budget allocated, the coverage ensured, the priorities and targets identified.**

764. See paragraphs 740 to 752 above.

104. Reports should also provide information on the progress achieved in the implementation of these rights, difficulties encountered and targets set for the future.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES
(articles 28, 29 and 31)

A. Education, including vocational training and guidance
(article 28)

105. Please indicate the measures adopted, including of a legislative, administrative and budgetary nature, to recognize and ensure the right of the child to education, and to achieve this right progressively and on the basis of equal opportunities.

765. With regard to ensuring the right of children to education, we may consider the basic principles of the Chilean education system, mostly enshrined in the Political Constitution of the Republic approved in 1980 and in Act nº 18.962, the Constitutional Organization Act on Education (LOCE), approved in 1990.

766. Both the Constitution and the Organization Act establish the following principles:

(a) The right to education.

(b) Freedom of education.

(c) The permanent nature of education.

(d) The right of parents to educate their children and to choose their children's schools.

(e) The duty of parents to educate their children.

(f) The compulsory nature of primary education.

(g) The non-party nature of officially recognized education.

767. At the beginning of the current administration in 1994, five major strands of educational policy were defined, several of which followed up the objectives of the first Coalition Government. They give expression to a broad national consensus reflected in the proposals of the National Commission for the Modernization of Education convened by the President of the Republic with a view to launching a State policy for the sector.

(a) Maximum priority: To provide general education of a high standard for all and to ensure equitable access to education.

(b) Unpostponable task: To reform and diversify secondary education.

(c) Necessary condition: To strengthen the teaching profession and improve the statutory framework on working conditions.[21]

(d) Basic requirement: To allow greater independence and flexibility in the running of schools and provide more public information on results in order to improve efficiency.

(e) National commitment: To increase investment in education, both public and private, and to foster modernization in the sector.

106. In this regard, reports should indicate, inter alia:

- **The measures adopted to ensure respect for the general principles of the Convention, namely the best interests of the child, respect for the views of the child, the right to life, survival and development to the maximum extent possible, and non-discrimination, including with a view to reducing existing disparities;**

768. In Chile, ever since the beginning of the Government of democratic transition in 1990, the authorities have taken unprecedentedly sweeping action in the area of education in an effort to improve and transform the education system, within a framework of broad consensus regarding the strategic character of the sector for the country's overall economic and democratic development.

769. Since 1990, education policies have followed two major guiding principles: improving the quality of education and ensuring more equitable distribution of its benefits. The effort to implement these principles in practice is reflected in the priority assigned by the present Government to

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[21] The statutory framework on working conditions refers to current regulations governing the working conditions of professionals in the education sector, with regard to aspects such as working hours, pay and further training assignments.

education and in the set of initiatives taken in the last two years as a follow-up to the measures and programmes developed by the administration of President Aylwin since the beginning of the decade.

770. The guiding aim of the overall effort is the provision of high quality education for all. The new policy of equity, however, is based on the principle of affirmative action, that is to say that any real attempt to introduce equal educational opportunities for heterogeneous groups must mean allocating more resources and paying special attention to groups at greater socio-educational risk in the country. Thus special attention has been given to lower income groups and children in rural areas, where the greatest inequalities occur.

771. In order to avoid discriminatory situations, the Ministry of Education prepared a document containing guidelines for a policy against discrimination in the education sector and a draft decree on discriminatory situations affecting schoolchildren in the educational system. Both documents are currently being studied by the highest ministerial authorities. The objectives which are being aimed for and which are related to discriminatory situations between schoolchildren are:

(a) To give effect to the right to education enshrined in Chile's Constitution.

(b) To introduce legal mechanisms ensuring the right to education for all, especially children and young people.

(c) To be coherent in practice with the principles that guide current educational policies, by implementing measures to improve the quality of education on an equal basis for all, in compliance with the constitutional principle of equal rights for all.

(d) To try to establish a culture that is opposed to discrimination.

(e) To provide the different departments of the Ministry with legal instruments aimed at safeguarding the principle of equality in education.

772. In practical terms, for instance, the Ministry of Education's Programme for Women, developed jointly with SERNAM, has introduced awareness-creation and training measures for the benefit of teachers with a view to promoting equal opportunities for boys and girls in the 7th and 8th primary grades and the first four years of secondary education. An effort has been made, furthermore, to eliminate sexism in the curriculum guidelines for primary education and secondary education and in complementary plans and programmes for primary education.

773. An effort has also been made to eliminate discrimination against pregnant girls and/or mothers in the school system[22], by quantifying and studying the problem and helping the young women concerned to stay longer in school. There has also been a drive to eliminate sexism in the school curriculum, which has meant eliminating any gender slant in school textbooks and in teaching practices, as well as promoting plans and programmes favouring the use of materials that encourage prominent action by women among students.

- **The proportion of the overall budget (at the central, regional and local, and where appropriate at the federal and provincial levels) devoted to children and allocated to the various levels of education;**

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[22] It is worth mentioning here the significant contribution made by the Programme for Women in favour of preventing early pregnancies.

774. In 1994, the Ministry of Finance gave concrete form to the priority assigned by the Government to education, by aiming to raise the country's investment in education from 4.9% of GDP to 7% of GDP within not more than eight years, splitting the expansion equally between the public and private sectors. As far as the public sector is concerned, this means raising its expenditure on education from 2.8% of GDP in 1994 to 4% of GDP at the latest by 2002. So far the progress achieved by the public sector towards reaching this target has been significant. Thus expenditure on education channelled through the Ministry of Education amounted to over Ch$ 877,000 million in 1996. If the expenditure made by municipalities and the investment in education by the Ministry of the Interior through the National Fund for Regional Development are added in, public expenditure on education totalled approximately Ch$ 928,000 million, or 3.1% of GDP.

775. Of the funds spent by the Ministry, 75% went on the school system (preschool, primary and secondary education) and 17% on higher education. Assistance funds channelled through JUNAEB accounted for 7% of the Ministry's total expenditure.

776. In the period 1993-1996, there was a sustained increase in the Ministry of Education's total expenditure, which rose from USD 1,158 million to 2,235 million in constant value, a trend which had been maintained since 1990, as shown in the following table:

Table 6
Ministry of Education expenditure

Year	*Ministry of Education expenditure (million USD)*	*Public expenditure on education (%)*	*Education expenditure as% of GDP*
1990	1,158	13.1	2.5
1991	1,296	13.4	2.6
1992	1,489	13.6	2.7
1993	1,621	13.8	2.8
1994	1,767	14.2	2.8
1995	1,974	14.9	2.9
1996	2,235	15.6	3.1

Source: MINEDUC statistics, 1996.

777. Public expenditure on education in 1996 came to Ch$ 875,952,066, distributed as shown in the following table:

Table 7
Distribution of public expenditure according to level – 1996

*Level**	*Amount (Ch$)*	*Per cent*
Preschool	65,509,621	37.48
Primary	458,409,853	52.33
Special	17,630,034	2.01
Secondary (humanities)	80,782,496	9.22
Secondary (technical)	86,419,522	8.87
Higher	150,109,045	17.14
Culture	8,169,483	0.93

* Excluding adult education.

Source: MINEDUC statistics, 1996.

778. Since the beginning of the Coalition Governments, the increase in the real value of the educational subsidy has ranged from some 50% for primary education to around 120% for special education. There was also a very significant increase in the allocation to adult education. In addition, a number of changes have been made in the system of subsidies which have improved adjustment mechanisms, stabilized the value of subsidies throughout the year and eliminated budget limits on some special subsidies. Special allocations have been made, moreover, for longer hours and for school improvements.

779. Expenditure on subsidies (i.e. public expenditure per student assisted in the school system) accounts on average for two-thirds of the sector's budget. It is worth pointing out that expenditure per student, which in 1990 amounted to 77% of 1982 expenditure, exceeded that level in 1994 and by 1996 was already a third higher than in 1982 (not including expenditure on assistance). (See Table 8.)

Table 8
Value of subsidies

Year	*Subsidized enrolment*	*Monthly subsidy per student (USD) **
1990	2,692,125	21.02
1991	2,683.137	21.70
1992	2,728,180	23.73
1993	2,750,714	25.84
1994	2,808,823	28.78
1995	2,891,167	34.59
1996	2,989,141	35.53*

Source: MINEDUC statistics, 1996.

* If quality improvement programmes and assistance and school infrastructure programmes are added in, monthly public expenditure per student was USD 50 in 1996 (equivalent to an annual rate of USD 600).

780. Lastly, there were a series of practical initiatives introduced by the Government, which reflect the increase in public and private expenditure on education, such as:

(a) Increase in investment of around 25%.

(b) Improved subsidy. In primary education the improvement has amounted to some 50% and in special education to some 120%.

(c) Drafting of a law on donations for educational purposes, aimed at attracting contributions from the private sector.

(d) Shared financing. Within the framework of a tax reform, towards the end of 1993, subsidized private primary schools, as well as subsidized municipal and private secondary schools, were allowed to demand payment from families, which is added to the tax subsidy as part of a system of joint payment.

- **The consideration given to the real cost to the family of the child's education and the appropriate support provided;**

781. The Ministry has implemented a series of programmes focused on equity, aimed at offsetting family difficulties and the limitations faced by students, as a result of socio-economic background, geographic location or other factors which hampering access to education and the maintenance or success of students in the system. Although these programmes began prior to 1990, since then they have been increasing their coverage and diversifying the services they offer.

782. A series of specific programmes have also been implemented to provide support to families, as follows:

Special grants programmes

783. The Ministry of Education runs a programme of grants, most of which are designed to encourage students to remain longer in the educational system. In 1996, they were distributed as follows:

Table 9
Programme of special grants for secondary education

Year	*Meals*	*School equipment*	*PAA subsidy*[23]	*Health*	*Prizes*
1993	102,002	102,002	14,617	7,296	130
1994	51,005	107,511	14,964	10,528	130
1995	108,674	108,674	15,260	10,920	130
1996	108,061	108,061	15,260	13,224	130

Source: MINEDUC statistics, 1993-1996.

Ministry of Education programme of indigenous grants

784. This programme is designed for indigenous students in primary, secondary and higher education, whose performance is satisfactory and whose socio-economic situation is particularly vulnerable. The programme's aim is to train human resources to help the indigenous communities and society in general. The programme is annual and permanent.

785. The main achievements of the programme in 1997 occurred in terms of coverage, with the allocation of a total of 6,000 grants, 3,214 for primary education, 1,607 for secondary education and 1,179 for higher education, across the country but focusing especially on Regions VIII, IX, X, I, II and the Metropolitan Region (RM).

786. Starting in 1998, it is hoped to initiate monitoring of the performance of grantees and to establish a network of recipients in order to find out and attend to their individual requirements (self-help).

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[23] This measure (related to the academic aptitude test) is particularly significant since it is designed to assist admission to higher education.

Table 10
Ministry of Education indigenous grants

Year	*Number of beneficiaries*	*Location*	*Budget allocation (Ch$ million)*
1994	5,000	Regions I, II, V, VIII, IX, X, XII and Metropolitan.	579
1995	5,390	Extended to all regions	663
1996	5,600	All regions	773
1997	6,000	All regions	872

Source: MINEDUC grants programme.

Table 11
Number of pupils receiving indigenous grants by level

Year	*Total beneficiaries*	*Primary students*	*Secondary students*	*Higher education*
1993	4,801	2,787	1,114	900
1994	5,000	2,900	1,160	940
1995	5,390	---	---	---
1996	5,600	3,000	1,500	1,100

Source: MINEDUC statistics, 1993-1996.

Ministry of Education higher education grants and solidarity loans

787. At the end of 1997 the same coverage of grants and solidarity loans is being maintained by the Ministry. This means that 12.1% of students in the 25 universities of the Consejo de Rectores (Council of Deans) received grants covering 55% of fees on average. University loans from solidarity funds were extended, moreover, to 47.3% of students enrolled in Council universities.

788. The equivalent of 77% of available contributions were allocated to solidarity funds, following a similar pattern to the resource allocation in 1996. The remaining 23% was distributed according to the socio-economic profile of first year students in the light of the results of the 1996 socio-economic accreditation system.

School Food Programme (PAE)

789. This is a JUNAEB programme[24], benefiting students in preschool, primary and secondary education, enrolled in municipal and subsidized private schools. It consists in the allocation of a daily food ration, in the form of breakfast and lunch, during the school year.

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[24] The National Council for School Assistance and Grants (JUNAEB) is an independent corporation under public law attached to the Ministry of Education, which is responsible for devising, implementing and coordinating measures of social and economic assistance to schoolchildren in preschool, primary and secondary education, with a view to furthering equal education opportunities.

The objective of JUNAEB is to reach schoolchildren all over the country with a series of assistance programmes to encourage their enrolment and maintenance in the educational system, to improve their performance and to avoid dropout until they have completed the appropriate education cycle. These programmes are basically targeted at school sectors which are more socio-economically vulnerable in municipal and subsidized private schools at different educational levels.

790. The calorific value of the daily food intake varies according to the socio-economic vulnerability of the children concerned: either 250, 700 or 1,000 calories according to need. There is another food programme specially for boarders. These are given four meals, breakfast, lunch, tea and dinner, with a total daily value of 2,400 calories.

791. The programme begins on 15 March each year and finishes on 15 December.

Table 12
School food programme
Daily rations for primary education

Year	*700-Calorie rations*	*1,000-Calorie rations*	*250-Calorie rations*	*2,400-Calorie rations*	*Budget allocation (Ch$ million)*
1994	580,948	121,124	---	13,892	36,939,749
1995	574,432	123,426	17,345	12,234	38,821,757
1996	545,432	114,114	17,997	13,394	43,254,514
1997	571,117	120,838	11,931	11,735	45,531,293

Source: JUNAEB Statistical Office.

Table 13
School food programme
Daily rations for secondary education

Year	*Breakfast 350 cal*	*Lunch 650 cal*	*Sup. ration 1,000 cal*	*Budget allocation (Ch$ million)*
1994	108,678	27,539	---	---
1995	108,678	27,539	56,782	---
1996	101,186	29,485	53,832	2,969,295
1997	---	---	53,111	4,217,777

Source: JUNAEB Statistical Office.

792. JUNAEB uses a risk-based methodology to allocate its resources, with a view to benefiting the poorest schoolchildren in the country. The methodology is based on the measurement of socio-economic vulnerability, as determined in a survey among first primary and first secondary grades. The methodology is applied each year to all municipal and subsidized private establishments in the country.

School equipment programme

793. This programme covers all beneficiaries of the food programme. It provides an annual set of school materials and equipment consisting in exercise books, coloured pencils, ballpoint pen, lead pencil and rubber. This set is handed out at the beginning of each school year, on 15 March.

Table 14
School materials programme

Year	*Number of beneficiaries*	*Secondary education*	*Budget allocation (Ch$ million)*
1994	1,127,000	---	427,246
1995	995,000	---	461,507
1996	960,000	---	495,972
1997	800,000	110,000	653,263

Source: JUNAEB Statistical Office.

Student housing programme

794. In the form of family residences, JUNAEB student homes and boarding grants, this programme is intended for schoolchildren in the 7th and 8th primary grades and secondary education, especially those living in rural areas which are not equipped with schools, in order to enable them to continue their studies.

795. The programme provides full daily food intake (breakfast, lunch, tea and dinner), accommodation, teaching support and full training throughout the school year.

Table 15
Student housing programme
Daily coverage. 1994-1997

Year	*Student homes*	*Boarding grants*	*Food (thousands)*	*Budget allocation (Ch$ million)*
1994	3,835	2,703	2,143	473,826
1995	3,600	2,384	---	130,764
1996	3,436	2,372	---	434,011
1997	3,584	2,297	---	456,580

Source: JUNAEB Statistical Office.

Table 16
Family residences
Beneficiaries and budget allocation. 1994-1997

Year	*Number of beneficiaries*	*Budget allocation (Ch$ million)*
1994	1,015	235,472
1995	2,105	623,335
1996	2,108	724,482
1997	2,112	762,155

Source: JUNAEB Statistical Office.

First Lady grants programme

796. This is intended for schoolchildren in Region V - Island Territories, Easter Island and Juan Fernandez - and Region XI, coming from primary or secondary education and who want to continue their studies in special, technical vocational or university education, as appropriate. It provides cash contributions for transfer and maintenance throughout the children's studies.

797. The programme runs from 15 March through 23 December of each school year.

Table 17
First Lady grants programme

Year	*First Lady beneficiaries*	*Budget allocation (Ch$ million)*
1994	500	184,770
1995	500	208,658
1996	500	255,645
1997	600	280,303

Source: JUNAEB Statistical Office.

School health programme

798. This programme is intended for students in municipal and subsidized private schools, enrolled in grades 1-5 of primary schooling, aged between six and twelve, suffering from problems of eyesight, hearing or posture, detected by teachers and confirmed by primary health care establishments. Free care is provided in the form of examinations, medicines and necessary items such as lenses, hearing aids and insoles. The programme runs from March to December each year.

799. The first stage of the programme involves research into health problems covering all students in the first primary grade of municipal and subsidized private establishments. Specialist care is provided on a quota basis per commune and according to the impairments observed in former years. Within the commune, an effort is made to select the most impaired children and those who are socio-economically most vulnerable.

Table 18
Main programme results (coverage, focus, quality improvement)

Year	*Eyesight problems*	*Hearing problems*	*Posture problems*	*Budget allocation (Ch$ million)*
1994	36,444	13,846	51,354	631,115
1995	48,629	20,187	51,026	820,944
1996	54,950	17,325	58,149	1,084,909
1997	54,950	17,325	58,149	1,333,021

Source: JUNAEB Statistical Office.

Oral health programme

800. This programme is intended for students between the ages of 6 and 14, in municipal and subsidized private establishments, selected by the commune's dental unit. It provides full dental care free of charge and organizes educational talks on oral health and prevention (gel application and tooth brushing). The programme takes place from March to December each year.

801. Prevention courses are given in the educational establishments of the municipal or subsidized private system that have asked for the service. Full dental care is provided in dental units in communes whose mayors have chosen to sign the relevant institutional agreement with JUNAEB.

Table 19
Coverage of the oral health programme

Year	*1994*	*1995*	*1996*	*1997 est.*	*1998 est.*
Full care	19,213	20,890	21,287	22,726	22,726
Maintenance care	12,937	22,840	30,551	38,200	47,750
Total	32,150	43,739	51,838	60,200	70,476

Source: JUNAEB Statistical Office.

Table 20
Oral health programme budget
(Ch$ million)

Year	*1994*	*1995*	*1996*	*1997*
Budget (thousands)	490,600	529,941	564,387	675,452

Source: JUNAEB Statistical Office.

- **The measures adopted to ensure that children may be taught in local, indigenous or minority languages;**

802. This objective is pursued through the Bilingual Intercultural Education Programme, which has been operating since 1996 and which aims to generate educational activities in schools for indigenous pupils, incorporating the knowledge and values of the culture and language of each ethnic group, and backed up by permanent community participation.

803. It has succeeded in developing pilot projects in establishments attended by indigenous students, strengthening intercultural education for teaching careers and providing training for teachers.

804. From 1998 onwards, it is hoped to expand the number of pilot projects, to prepare and issue a first lot of teaching material on indigenous languages and cultures, to strengthen the indigenous education and culture commissions (CRECI) and to provide teachers with training and further training.

Table 21
Bilingual education programme beneficiaries

Year	*Beneficiaries*	*Location*	*Budget (Ch$ million)*
1996	18 schools 60 teachers 938 pupils	Regions I, VIII, IX and X	85
1997	20 schools 64 teachers 1,015 pupils	Regions I, II, VIII, IX and X	90

Source: Bilingual Education Programme.

- **Mechanisms developed to ensure the access of all children, including girls, children with special needs and children in especially difficult circumstances, to quality education adapted to the child's age and maturity;**

805. Special education as a separate part of general education is conducted preferably within the regular education system, providing specialized resources and services to persons with special educational needs at all levels and in all sectors of education (preschool, primary, secondary and higher). Act n° 19.284 was passed in 1994, setting out rules for the full social integration of disabled persons. Then in 1998, the Ministry of Education published a regulation for Chapter II of the Act, establishing the right of disabled persons to regular education, thereby extending the educational options open to those schoolchildren.

806. From 1990 onwards, the coverage for children with special educational needs derived from disability have been increased, to a total of 4,488 pupils this year incorporated in the regular system. The Ministry of Education will continue to promote and support this process, committing the necessary economic resources and undertaking teacher training activities as part of its school integration policy.

807. Students with special educational needs unrelated to disability, which hamper their school education, are looked after in primary general education schools, with specialized teaching support, as well as in separate groups working in special classes, reaching a total of 64 400 children.

- **The steps taken to ensure that there are sufficient teachers in the school system, to enhance their competence, and to ensure and assess the quality of teaching;**

808. The Coalition Governments have developed policies specifically designed to improve teachers' working conditions and pay, in order gradually to make up for the very low level they had reached at the time of the military Government. In the first place, the teachers' statute (Act n° 219.070 of 1991) established a national minimum basic wage, which meant a real salary increase for many teachers, who were particularly disadvantaged. It also began to restore the teaching profession, establishing common standards regarding training and further training, participation, and the development of independence and professional responsibility. At present the minimum income of teachers is Ch$269,867 (USD 653) for a standard 44 hours per week of teaching in primary education.

809. Staffing levels remained stationary between 1993 and 1995. According to the latest statistics, there were 113,368 teachers employed in the school system. They were distributed on the four different levels as follows:

(a) Preschool education: 9,415

(b) Primary education: 78,813

(c) Special education: 4,228

(d) Secondary education: 50,187.

810. Some 95% of teachers possess the relevant qualifications. Women make up 68.4% of the total, a proportion which in primary education is as high as 72.3%, but in secondary school only 52.4%.

811. There are at present more the 23,000 students undergoing teacher training for different levels of the system.

812. The educational reform which is currently under way relies on a key element, which are the teachers. It is they who in the end will be making use of the many resources which the reform process has been making available to primary and secondary schools. The Ministry of Education has therefore been promoting a programme of Professional Teacher Development. This programme included initiatives in the areas of initial training, basic in-service further training, a programme of grants and traineeships abroad for professionals of the education sector and the award of national prizes for teaching performance.

813. For the above initiatives, over USD 60 million have been earmarked over a number of years, distributed as follows:

(a) USD 34.5 million for initial training;

(b) USD 9 million for basic further training;

(c) USD 15 million for grants abroad;

(d) USD 2.5 million for teaching performance prizes.

814. To this figure should be added the additional cost of higher salaries, introduced with the teachers' statute.

815. The teachers' statute establishes guidelines for teaching careers with an emphasis on the professional performance of teachers, allowing the possibility of steady increases in salary. A further initiative has been a national system for the assessment of performance, which awards financial prizes to the best establishments. All in all, these initiatives imply a substantial improvement and renovation of initial training and further training for Chilean teachers.

816. The further in-service training of teachers is essential to achieve a qualitative improvement in education. Since 1994, some 55,000 teachers a year have received an average of 60 hours of courses. The Centre for Further Teacher Training, Experimentation and Research (CPEIP) alone has taken in a total of 83,358 teachers.

817. As far as the improvement of teaching is concerned, in the last four years the Ministry of Education has taken several measures through its MECE programme. One of these improvement measures has been the Learning Problems (PROA) programme, which has been run as part of the

CPEIP-MECE Basic Further Training Plan. It was launched in 1992, on the basis of a strategy consisting in providing 8,400 primary education teachers with further training in prevention, detection, diagnosis and educational strategies for resolving learning problems, between 1992 and 1996. This programme benefited 47,460 children. Two modifications were made in the original design: one was related to the relevance of the teaching material used, in the light of actual teaching conditions; and the other related to equity, in order to help children with cognitive disabilities to improve their performance.

818. In addition, an improvement programme has been running since 1995 under the title "Modernization of Educational Practices", for the benefit of special schools. Since 1996, another programme under the name "Catering for Diversity in the Classroom" has been aimed at teachers in primary schools dealing with disabled children.

819. In 1997, a basic improvement programme for teachers benefited approximately 7,000 teachers in the country, mainly in the second cycle of primary education and in secondary education, in schools with a high academic reputation. It is hoped that some 25,000 teachers will be able to improve their performance in this way within the next few years.

820. A programme of grants and fellowships has also been providing traineeships, post-diploma and postgraduate courses abroad. The aim of this programme is to offer teachers the opportunity to become acquainted with teaching experience in other countries and to give it consideration, with a view to renovating teaching and learning practices in their educational units, opening up the system to change, while at the same time confirming their role as agents of innovation.

821 The traineeship aspect of this programme began in 1996, when 563 teachers travelled abroad. In 1997, 796 class teachers were selected, in addition to principals from different educational levels and sectors. Since 1997, new possibilities have been offered, in addition to the traineeships, for teachers on active service wishing to undertake diploma, post-diploma and postgraduate studies. This covers a broad range of high-level further training possibilities, thus significantly improving the country's educational research capacity. It is hoped that in the next three years some 1,500 teachers will be able to take advantage of this type of further training, which exceeds the "President of the Republic" foreign grants programme in terms of both magnitude and amount.

822. Lastly, the "National Prizes for Teaching Performance", which had been announced in the President's message of 21 May 1996, are aimed at establishing social recognition for the teaching profession. The prizes will be awarded to the most distinguished teachers in Chile. The candidacies and selections are made basically by the educational community, on the basis of teachers' merit. The prize itself is worth Ch$ 4 million (equivalent to USD 9,750) and a diploma is awarded to the school where the prize-winners teach.

- **The measures adopted to provide adequate educational facilities, accessible to all children;**

823. Through its MECE programme, the Ministry of Education has implemented measures to this effect, aimed at improving the image of educational units, which has implied taking steps to improve their infrastructure and to build and equip classrooms.

824. In the four years that the programme has been running (1994-1997), 193 classrooms have been built in rural schools to complete primary schooling facilities. In addition, 100 preschool classrooms have been built and the infrastructure of 2,232 primary schools has been improved.

825. All these measures were undertaken jointly by several Ministries (Ministry of the Interior, Ministry of Planning, Ministry of Finance and the Architecture Department of the Ministry of Public Works), initiating an irreversible process of joint undertaking leading to qualitative changes in public investment.

826. The incorporation of a significant number of schools in the Full School Day scheme has meant in many cases making improvements in their infrastructure. The State will finance infrastructural improvements undertaken for the purpose of extending the school day, required by schools whose physical facilities are insufficient to cope with the expected number of pupils. The funding is to be used for improvements, adjustments and extensions in existing premises, the construction of new schools and the purchase or lease of existing buildings, as well as the purchase of furnishings required for the single shift. The funding will consist in an additional contribution towards costs, in the form of an amount of resources made available under certain conditions, allocated in accordance with a set of requirements that need to be met by the backer and the school itself.

827. Altogether 75 new classrooms have been built and/or improved in municipal urban schools, benefiting 2,200 children.

828. In the specific case of preschool education, the National Kindergarten Council (JUNJI) has contributed to school infrastructure. One example has been the premises specially built in accordance with existing standards, with capacities ranging from 72 to 296 preschool children (except for one school of 490 children) and equipped to meet the biological, psychological and social needs of preschool children. In addition, further premises provided by municipalities and other community organizations have been adapted as necessary.

829. In the period 1994-1997, the JUNJI has managed to set up establishments in all regions of the country, offering longer hours at nursery level and in most of the other levels as well. With this increase in the number of traditional kindergartens and classes, the coverage in 1997 amounted to 67,197 children.

- **The rate of illiteracy below and over 18 years, and the rate of enrolment in literacy classes, including by age, gender, region, rural/urban area, and social and ethnic origin;**

830. The historic rate of illiteracy in Chile has been steadily falling: in 1993, it represented 5.2% of the total population above 15 years old, and by 1996 the figure had fallen to 4.8%. During that period 1993-1996, a total of 29,113 people were made literate.

Table 22
Illiteracy rate 1990-1996

Year	*Illiteracy rate*
1990	6.3
1991	6.1
1992	5.7
1993	5.2
1994	4.9
1995	4.9
1996	4.8

Source: MINEDUC statistics, 1996.

Table 23
Illiteracy by area and region

Region	*Urban*	%	*Rural*	%	*Total*	%
I	1,482	0.6	1,934	16.2	3,416	1.4
II	3,148	1.1	567	11.1	3,715	1.2
III	5,468	3.6	1,514	11.7	6,982	4.2
IV	13,536	4.9	15,259	14.1	28,795	7.5
V	26,593	2.7	8,893	8.5	35,486	3.3
VI	16,717	4.8	26,626	14.2	43,343	8.1
VII	20,963	5.6	39,600	16.2	60,563	9.8
VIII	41,760	4.1	48,484	16.7	90,244	6.9
IX	18,905	5.6	31,569	13.9	50,474	8.9
X	26,681	6.0	32,359	12.1	59,040	8.3
XI	2,253	5.3	1,348	9.4	3,601	6.4
XII	3,332	3.4	542	7.4	3,874	3.7
XIII	97,627	2.4	12,127	8.4	109,754	2.7
Country	278,465	3.2	220,822	13.6	499,287	4.9

Source: 1996 CASEN survey- Social Studies Forum - MIDEPLAN.

831. As may be seen from Table 23, the situation is uneven across the country, and there are in particular substantial differences between urban and rural areas, between regions and between socio-economic strata.

832. The level of school attendance has also been improving in recent years (see Table 24), although there are still inequalities.

833. As may be seen, however, there has been a gradual increase in the number of years of effective schooling for the population as a whole.

Table 24
Period of schooling, 1988-1996

Year	*Period of schooling*
1988	8.25
1989	8.46
1990	8.58
1991	8.65
1992	9.24
1993	9.38
1994	9.47
1995	9.57
1996	9.76

Source: MINEDUC statistics, 1996.

Table 25
Average school attendance of population aged 15 and over by area and by sex (1990-1994)

	Region						*Total*		
	Urban			*Rural*					
	1990	1992	1994	1990	1992	1994	1990	1992	1994
Male	9.9	9.9	10.0	6.2	6.3	6.4	9.2	9.2	9.3
Female	9.4	9.4	9.5	6.3	6.2	6.4	8.9	8.9	9.0
Total	9.6	9.6	9.7	6.3	6.3	6.4	9.0	9.0	9.2

Source: MIDEPLAN, Department of Social Information, CASEN surveys 1987, 1990, 1992 and 1994.

- **Any systems of non-formal education;**

834. According to Article 4 of the LOCE, education may take the form of formal education or informal education. Formal education is scientifically structured and systematically delivered. It is made up of different levels which ensure unity for the education process and facilitate lifelong continuity. Informal education is taken to mean any process related to the development of people and society, arising from interactions between them, but without the tuition of educational establishments.

Out-of-school education

835. As part of the national education system, out-of-school education in its general guidelines has aimed to extend the coverage of preschool and school sectors for which there have so far been no specific social education programmes. As a response to the need to implement an education policy that prepares future generations for the exercise of democracy, out-of-school education, from 1991 onwards, has played a dominant part in the development of programmes and specific projects focused on marginalized preschool and school sectors, with a view to incorporating them in the development of society as a whole.

836. Some of the achievements and improvements are listed below:

(a) A decree was passed establishing a new regulation for secondary school centres in order to strengthen democratic objectives among principals and to stimulate the participation of students.

(b) A Day of the Student was instituted, to symbolize social recognition of the importance of student centres.

(c) Implementation of the programme "Your life counts - recount your life" under the responsibility of the Balmaceda 1215 Cultural Services Centre for Young People and the Participa Foundation, extending their coverage and the diversity of their artistic activities.

(d) Extension of the Open Summer Schools programme, covering 26,000 young people in 52 communes.

(e) In 1997, a National Exhibition was held on science, art and youth at Mapocho Station, in which 21,328 students from all over the country took part. Implementation of the programme for the promotion and development of out-of-school education. As part of this programme, educational establishments submitted projects, and those selected obtained teaching tools and materials for their activities, as well as technical assistance and recognition as a permanent group, with special accreditation by means of youth participation cards.

837. In preschool education, there are two initiatives, which, although aimed at specific objectives in each case, really belong in the area of non-formal education. These are the TILNA programme (Local Integration Workshops at National Level), which later became the PMI (Improvement Programmes for Children) and the "Know Your Child" programme.

838. The TILNA programme, which was part of a drive to provide further training for educational staff, led to the hire of 349 persons, including provincial and local monitors and project coordinators, each year from 1995 onwards. As it developed, the programme gradually became a strategy for extending coverage in the more vulnerable sectors, eventually turning into the Improvement Programmes for Children. In this latest version, the activities undertaken with the children try to make them key agents of their own community. Each organized group draws up a diagnosis of the best features for children in its community, after which it makes a proposal in accordance with the requirements and expectations of the children in the community.

839. A competition is then held for all the groups to submit their projects, which, if selected, are granted assistance worth USD 2,500 a year. In the project implementation phase, an agreement was reached with the Solidarity and Social Investment Fund (FOSIS) to ensure that the groups received the financial aid and that the money was properly used.

840. The programme has been well targeted, since most of the communes where it has been tried are those involved in the National Plan for Overcoming Poverty. Since 1995, some 20,000 children have benefited in one way or another.

841. The initiative has led to 105 local projects, distributed over 37 provinces, 69 communes and 133 localities. In 1997, the programme covered 6,000 children of preschool age, as well as another 2,000 children over the age of 6. A further 2,024 adults received training. Most of the projects have run smoothly and their funds have been well managed by the groups.

842. An important experiment has been run in the commune of Coquimbo, which is part of Region IV, in the form of the first Educational Association for Local Children, an independent initiative which in September 1996 was given legal status. It has at present 72 members.

843. The unexpected development of the Improvement Programmes for Children, which have provided an alternative source of possibilities for preschool education, is due to the fruitful combination of being locally generated and therefore socio-culturally appropriate initiatives, and the fact that they are part of a broader training effort involving public and private, technical and community activities and resources.

844. Their plans for the future are centred on gradually increasing coverage by some 25% in poor urban and rural localities and gradually shifting the focus to the municipalities.

845. One of the methods chosen to extend coverage in poor rural and urban sectors, trying unconventional approaches, has been the programme mentioned above called Know Your Child, which is developed by leading women in the community trained to pass educational activities on to mothers involved in the programme in the localities where it operates.

846. It has been introduced in 245 rural communities in Chile's 13 regions. In the current period, the programme dealt with 11,953 children and provided training to 7,753 mothers in rural areas. For

JUNJI, Integra and Prison Premises, the programme has been applied as a tool for working with families and improving the quality of preschool education.

847. The National Kindergarten Council (JUNJI) itself has developed a variety of unconventional educational programmes (family, working, seasonal, distant or radio nurseries, nurseries at home, for indigenous communities or community kindergartens, open patio, day nurseries at home and day nurseries in the consulting room) as a way of responding to the various requirements of the population concerned in urban, semi-urban and rural areas.

848. Through these unconventional care facilities, JUNJI has been able to reach many children who had previously been left without care, extending the coverage of the programmes to 37,293 children in 1997.

849. New urban family nurseries, using existing spare capacity, have been opened, taking in another 3,996 children. With the same strategy, the Integra Foundation has been able to run 56 community kindergartens, providing care for 2,107 children.

850. A further innovation has been the use of the mass media for educational purposes. More specifically in the area of preschool education, a parental education strategy was initiated as one way of strengthening the awareness and commitment of parents with regard to preschool education. A joint commission was set up for the purpose, including JUNJI, Integra, the Ministry of Education and UNICEF. The campaign was assessed by an external organization, which showed that the messages reached some 75% of the target group to which they were addressed. One important result of the campaign was that State funds were allocated to produce new videos. In addition, both private and public television channels assisted by broadcasting the spots for six months free of charge.

- **Any system or extensive initiatives by the State to provide early development and education services for young children, especially for young children from disadvantaged social groups;**

851. Preschool education is intended for children under the age of 6 and is delivered through subsidized municipal, subsidized private and paying private establishments. Despite the fact that in Chile preschool education since 1965 has been considered the first level of the educational system, it is still not compulsory.

852. In lower income sectors, most of the preschool facilities are provided by institutions that depend on the Ministry of Education, which concentrates chiefly on 6-year-old boys and girls. There is the National Kindergarten Council (JUNJI), an independent, decentralized, public law institution, related to the Government through the Ministry of Education, which is responsible for regulating and supervising day nurseries and private kindergartens, and the Integra Foundation.

853. Subsidized municipal schools offer preschool and primary education free of charge, receiving a State subsidy for every child they take in. Preschool education is mainly for 5 and 6 year old children, and in 1994, total enrolment came to approximately 128,000 children.

854. The subsidized private schools operate along similar lines, except that they are dependant in this case on private sponsors who have been recognized as cooperating with State education. In 1994, some 85,000 children were catered for in this way.

855. Fee-paying private schools take in children between the ages of 0 and 6, whose families are in a position to pay the cost of sending their children to a kindergarten. These establishments are supervised by the National Kindergarten Council, although owing to the large number of

kindergartens and the lack of staff to carry out supervisions, it is not possible to ensure that the quality of care provided is up to the standards established by the JUNJI.

856. The National Kindergarten Council (JUNJI), which was set up by Act nº 17.301 in 1970, is funded from annual tax revenues. It enjoys national coverage and is organized into regional directorates. In accordance with its legal mandate, it works with directly-administered establishments on the basis of agreements and subsidies and with the private sector.

857. It operates through 1,403 establishments and cares for 112,022 children across the country. It runs the following programmes:

- Traditional kindergartens
- Family kindergartens
- Kindergartens for the children of indigenous communities
- Seasonal family kindergartens
- Working family kindergartens
- Open patio kindergartens
- At-home kindergartens
- Urban radio kindergartens
- Community kindergartens
- Consulting room day nurseries.

858. Another institution that conducts activities in this area is the National Foundation for the Full Development of the Child. This is a private law institution presided over by the wife of the President of the Republic. It is funded from tax revenues and private contributions. Its aim is to foster the full development of poor children by promoting their intellectual, emotional, social and nutritional development. It maintains a network of centres across the country for children from lower income families aged under 6. At present its coverage extends to some 60,000 children; its open centres project currently has the most vacancies.

859. In order to achieve its objective of fostering the full development of the child, while involving families in the educational process, it runs different programmes in order to find the best response to the specific characteristics of the Integra Foundation's requirements. These programmes are organized as follows:

- Open centres
- Rural centres
- Community kindergartens
- Seasonal centres

- Extended hours centres
- Day nurseries
- Integrated centres
- Kindergartens on wheels.

860. In all these programmes, the educational objective is to develop the skills the children will need in their later schooling. It also comes with a food programme, that meets 70% of the food requirements of preschool children.

861. A number of different strategies have been developed to involve families systematically in the Foundation's educational programme. The objective is to strengthen the families' role as prime educators and to reinforce the personal resources available to them to support their children's development and growth.

862. One of the essential resources on which the Foundation relies is educational materials. The most useful of these include: the file of preschool education activities, which consists in a set of cards that help to run the curriculum and a minimum number of good quality educational activities for every child; the "Let's play maths" box and handbook, which gives children a practical, hands-on experience of mathematics; the book "From home to school", a graphically illustrated text that provides an introduction to and the development of psychomotor and cognitive skills; the card set "Games, entertainment and simple tasks for the home" and the "Let's play in the family" kit, which provides a way of introducing a stimulating environment and games into the families of the children cared for by the Foundation; educational folders for working with families, including the series "Be kinder to children", which contains a set of three folders that put across principles of education based on respect and affection; and the folders "Growing up means overcoming obstacles", "Let's talk about television" and "Learning to live together", which deal with key topics for the development of children.

863. The results of the above activities have been promising. By 1994, normal development indicators showed a figure of 61.8% of children, with an average development coefficient of 42.2%, which was still slightly in the risk category. By the end of 1997, the results of the programmes showed normality indicators for more than 80% of the children, with the average children's development coefficient at over 47 points.

864. From 1990 to 1996, the preschool education coverage for the lowest quintile increased from 16.9% to 22.3%, while for the top quintile the figure rose from 32.4% to 48.4%. The coverage discrepancy between the first and fifth quintile in 1990 was 15.5 percentage points, a figure which rose to 26.1 in 1996. In the latter year, preschool coverage was substantially higher in the fifth quintile, at 48.4%, while in the lowest quintile coverage was only 22.3%. Despite the efforts that have been made to improve preschool coverage for the first quintile, this continues to be below the national average (see table 26).

Table 26
Preschool education coverage according to admission quintile, 1990-1996

Quintile	*1990*	*1992*	*1994*	*1996*
I	16.9	19.8	21.1	22.3
II	17.5	22.1	22.7	26.8
III	20.4	23.9	27.2	30.0
IV	27.2	27.9	33.4	36.8
V	32.4	44.6	46.0	48.4
Total	20.9	24.8	26.9	29.8

Source: MEDIPLAN. CASEN surveys for 1990, 1992, 1994 and 1996.

865. If coverage is broken down by area, it is found that it is substantially greater in urban areas, a situation that has remained unchanged since 1990, although it is worth pointing out that the discrepancy between urban and rural areas has diminished. In 1990, for instance, rural coverage was approximately one-third that of urban areas, while by 1996 the figure had risen to approximately half.

866. Despite this increase in rural coverage, however, the latter continues to be much lower. According to the 1996 CASEN survey, urban coverage was 32.6% and rural coverage only 15.3%, compared with a national average of 29.8% (see Table 27).

Table 27
Preschool education coverage by area, 1990-1996

Area	*1990*	*1992*	*1994*	*1996*
Urban	23.8	27.4	29.7	32.6
Rural	8.5	12.7	13.7	15.3
Total	20.9	24.7	26.9	29.8

Source: MEDIPLAN. CASEN surveys for 1990, 1992, 1994 and 1996.

- **The changes that have occurred in the education system (including with regard to legislation, policies, facilities, budgetary allocation, quality of education, enrolment, drop-out and literacy);**

867. In line with the country's diagnosis, the education policies initiated in 1990 followed two main guiding principles: improvement in the quality of education and greater equity in the distribution of education. The focus of policies aiming for quality have been the improvement of internal processes of the education system and its learning results. Equity policies have tended to follow the affirmative action approach, according to which achieving equal educational opportunities for a variety of groups actually means assigning more resources and paying special attention to the most vulnerable groups in the country.

868. Since 1995, a third principle has been added to the other two, namely modernization. When the country was struggling to overcome the problems that arose from its transition to democracy, the need to modernize was not given priority. Moreover, there are certain requirements as well as favourable conditions that must be put in place in order to achieve a qualitative change in education. What is needed is not only better education, but new education. In other words, the changes have to be general and more ambitious, more in line with what might be termed an educational reform.

869. The design of a reform must be systemic. This means that it is no use undertaking one part of the reform without seeing to the whole, since each part synergetically influences the behaviour of all the others.

870. Progress therefore has to be made in ways of teaching and learning, the time given to them, the contents of education, as well as the gradual and sustained improvement in the skills and working conditions of teachers. Secondly, a reform has to be designed as a broad-ranging and long-term process. Thirdly, reform is only possible and will be facilitated if there was a new institutional framework. At one and the same time the reform has to look after the material conditions and the new knowledge required to sustain educational processes. On the other hand, educational reform typically is gradual, incremental and micro-social, that is, it is produced in and from the base of the system.

871. The current reform has been occurring at a continuous, incremental pace, which is characteristic of decentralized educational systems that are both open to society and flexible in their ability to adapt to faster and more deep-seated changes.

872. In other words, a qualitative transformation of education has been taking place in Chile, following its own strategy of change. The aim of the reform is, gradually and globally, to affect all dimensions of the system, including forms of teaching and learning, the contents of education, the management of educational services, inputs both of educational materials and of school infrastructures, and the sustained funding of better working conditions for teachers.

A new curriculum framework

873. In addition to the effort made to provide technical and teaching support for the management of primary and secondary schools, thus favouring a renewal of teaching practices, in 1996 a broad-ranging curriculum reform was initiated, aimed at renewing the curriculum of primary and secondary education and decentralizing its preparation.

874. The curriculum reform is based on the following guidelines:

(a) The need to update the objectives and contents of primary and secondary education, considering that the foundations of the educational plans and programmes for both these levels were laid in 1980 and 1981, respectively, and that meanwhile considerable changes have occurred nationally and locally in terms of civilization, knowledge and practical reality;

(b) The obligation to meet the provisions of the Constitutional Organization Act on Education (LOCE), which apart from laying down general objectives and completion profiles for both cycles of the education system, introduced a new procedure for generating the school curriculum on a decentralized basis;

(c) The need to achieve quality in education, which implies ensuring that whatever is taught and learned is essentially relevant, which itself assumes that the recent advances in educational science are taken into account.

875. In accordance with the LOCE mandate, in January 1996 what were known as the fundamental objectives and minimum compulsory contents (under the abbreviation OF/CMO) were issued for primary education. This marked a great step forward in updating the structure and corresponding curriculum contents for primary schooling and opened up the possibility for schools, while keeping to the common core set out in the OF/CMO programme, to prepare their own study plans and

programmes, adapted to the students they were working with and compatible with the educational projects of the schools themselves.

876. The fundamental objectives (OF) consist in the skills which students have to master in the different periods of their schooling, in order to meet the general purposes and objectives and completion requirements for primary and secondary education.

877. The minimum contents (CM) consist in the specific, practical knowledge required to achieve the abilities and attitudes which schools are obliged to teach, to cultivate and to promote in order to meet the fundamental objectives established for each level.

Curriculum reform in primary education

878. For the first time the Chilean school curriculum is comprehensive and general in character, aimed at personal development and the moral and social conduct of students, and must be followed in the educational activities conducted in the course of primary education.

Curriculum reform in secondary education

879. The new curriculum was prepared with the participation of many experts. It was publicized and submitted to broad consultation in 1997, and subsequently sent to the Upper Council for Education, for final approval at the beginning of 1998. Altogether 189 institutions of different kinds were invited to take part in the consultation regarding the new curriculum. The aim of this curriculum reform is to respond to the fact that at present the accelerating changes in technical knowledge and the requirements of organizations and society in terms of knowledge, as well as the introduction of decentralized organization of school education and new curricula, have to be thought of as an incremental and long-standing process. The ministerial guidance on minimum contents has made a substantial change in the way the curriculum is organized, by basically splitting objectives and contents into two major categories: common education and differentiated education, which in turn is divided into two streams: humanistic/scientific and technical/vocational.

880. The reform has introduced substantial changes in the internal organization of differentiated education, breaking up the existing structure based on humanistic education and scientific/vocational, which was geared to direct entry to the job market. The transversal objectives of secondary education follow the general guidelines aimed at the pursuit of good quality, general education for all set out by the National Commission for the Modernization of Education.

Full school day

881. In 1997, it was decided to pursue the objective of a full school day, which appeared as a difficult challenge but which was to have a favourable effect on areas of learning, the management of schools and on educational equity.

882. Act n° 19.494, published in the official bulletin of 25 January 1997, laid down the rules for the implementation of the full school day in 1997 for 3,000 subsidized schools.

883. According to the advantages and contents outlined for the project, it was a matter of achieving a qualitative leap forward in order to consolidate the efforts initiated in 1990 with programmes to improve the quality and equity of education (P-900, preschooling, primary, secondary, ENLACES), allowing more time and providing a suitable infrastructure, better organization and better working conditions for good quality teaching.

884. Among the benefits are more time for teaching activities; time to meet the requirements of the new fundamental objectives and minimum contents; time to alternate classroom work with complementary activities and recreation; the possibility of conducting support activities for students (workshops, directed studies, laboratory work, special tasks, etc.); better identification of students, teachers and principals with their educational establishment; and longer time spent by children and young people in schools, which lessens their exposure to risk.

885. Introducing the full school day into the Chilean educational system has required a concentrated effort to mobilize large volumes of resources and sustained commitment on the part of the various actors involved, namely the State, municipalities, private sponsors, teachers, principals and students. The outcome is that by the year 2002, practically 9,000 schools will be running a full school day system from third primary grade to fourth secondary. The full school day may also benefit pupils in the first and second grades of primary schools in general education with indices of over 50% of vulnerability[25] and/or rural schools with multigrade courses.

886. This means that each school: i) will have an additional 200 hours annually, still within the 40 weeks of schooling, with no change either in vacations or in the school calendar; ii) will increase teaching to a minimum of 38 hours a week in primary schooling and to 42 hours a week in secondary schooling, in addition to two hours or the equivalent every fortnight or month for teachers to carry out group technical educational work; iii) will receive an increase in resources through educational subsidies. The average subsidy increase from third primary to fourth secondary is 34%.

887. This measure consisting in extending the school day can only be compared to the major efforts the country has made to extend the right to education to the whole of its population. It follows a tradition, inherited from the generations who have preceded us, who perceived education as the key to the nation's development.

888. The present challenge, once the problem of school coverage has to a great extent been resolved, is to ensure equitably distributed good-quality education. Although the challenges are qualitatively different, they follow the same significance and symbolism. The full school day maintains the tradition of those major educational challenges already undertaken in Chile, but following a new orientation which is necessary in the modern world, namely quality and equity.

889. The extent and quality of time spent in school is a key factor in the learning achievement of children. Comparative international research into the factors that positively affect learning points towards school time as one of the most decisive.

890. The extension of school time, added to the recent prolongation of the school year by a further two weeks, places Chilean education in opposition to the most advanced countries in this respect. As for the implications of this significant change, the following are worth mentioning.

891. From the point of view of the students, the longer school time brings an improvement in the quality of learning and in the enrichment of their school experience, which is particularly important for children who do not receive any support at home to do their homework. The measure also implies considerable social benefits. Children and young people whose alternative is being in the street will spend more time in protected places. More possibilities will be opened up, moreover, for incorporating women in jobs. Lastly, as a result of the greater time available for mothers to undertake

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[25] Vulnerability is understood to be the biological, psychological, socio-economic and cultural risk affecting the quality of life, well-being and learning capacity of schoolchildren. The vulnerability index is the average weighted percentage of unsatisfied needs of schoolchildren in a particular school, such as medical care, dental care or being underweight for their age.

paid work, it is hoped that the measure will help reduce child labour, delinquency and school dropout, all factors which tend to perpetuate poverty in its worst manifestation.

Table 28
Level of education and extra hours

Level/Stream	*Increase*
	Hours per year
Preschool (second transition level)	0
Primary	
Grades 1 and 2	0
Grades 3-6	232
Grades 7 and 8	135
Secondary	
Sc./Hum. 1 and 2	261
Sc./Hum. 3 and 4	174
Tech./Vocational 1 and 2	174
Tech./Vocational 3 and 4	116

Source: MINEDUC statistics, 1997.

892. The extension of school time will benefit 2.3 million pupils in primary and secondary education. This will entail substantial efforts from an organizational and financial point of view due to: i) the increase in teaching hours (600,000 hours per week), which will have to be paid with increased subsidies; ii) the need to build the equivalent of practically 20,000 classrooms in 3,700 schools, for some 760,000 pupils. This means making infrastructure improvements so as to enable schools that are inadequately provided to cater for all the pupils in the new system.

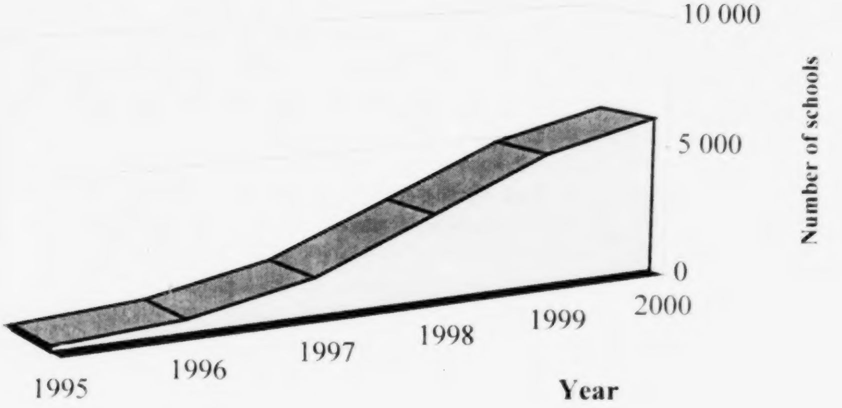
893. Other measures undertaken as part of the reform have included programmes to improve the quality of preschool and primary education. These programmes have entailed a systematic overhaul of the preschool and primary education system in Chile, as a means of significantly improving the quality of the conditions, activities and results of kindergartens and primary schools.

894. A number of improvements have been made in primary education, including the acquisition of new inputs. This has led to the issue of school textbooks to all pupils from first to eighth grade in municipal and subsidized schools throughout the country. In addition, classroom libraries have been provided in all the courses of primary education in subsidized schools. Infrastructure in general has been repaired and further equipment has been added, such as children's games and trees and the physical structure of schools situated in poorer sectors has been repaired.

895. Funding has also been provided for educational improvement projects generated by the schools themselves. The aim of these projects is to improve the schools' capacities for designing and implementing their own solutions and educational improvements.

896. In 1992, the ENLACES (Links) network was launched with the idea of building up an experimental educational information network involving 100 schools and ten institutions. By 1995 the target had been easily exceeded and the objectives were re-targeted, with a proposal to incorporate - by the year 2000 - 50% of the country's primary schools and 100% of secondary schools, that is approximately 5,000 establishments across the country.

Coverage of ENLACES project



Source: ENLACES programme.

897. In 1997, 600 new schools have been incorporated in the network, which has extended the project's coverage to a total of 911 primary schools. In 1998, the plan is to bring in a further 750 schools. In the longer term, the aim of the project is to set up a community of educators and learners, who will be able to exchange experiences, successes, resources and learning, regardless of the geographic location of individual schools.

898. With the ENLACES programme all the schools receive La Plaza software, which facilitates the use of computers by the children in their educational approach to communications.

899. Since 1996, ENLACES has been operating on the basis of a technical assistance network, which includes centralized national coordination and seven outlying centres which coordinate 23 universities.

900. The objectives and strategic principles referred to earlier serve as a basis for the programme in 900 schools, aimed at improving educational quality in the most vulnerable urban and rural sectors in primary education.

901. The programme provides technical and material support, focusing on the 10% of the country's non-fee paying schools where the lowest rates of learning and the greatest quality have been detected. The programme is aimed at improving the learning abilities of children in primary school, so that it offers assistance both for the children and for their teachers. It includes the following activities: teacher improvement workshops, libraries for classrooms and educational materials, strengthening of educational management, learning workshops and special care for children at highest risk.

902. The Ministry has developed a teaching plan specifically intended for the 3,338 rural schools (attended by 96,590 children), which have been found to be the most vulnerable. The plan, which is run by one, two or three professionals, includes the following activities: distribution of books and teaching materials specially designed for rural children; establishment of educational coordination microcentres to study the implementation of innovation in individual schools; training teachers in multigrade schools to deal with new curriculum experiences; methodological adjustment to create a

link between local culture and the general dimensions of knowledge; formulation and implementation of educational improvement projects in rural microcentres.

903. To illustrate the progress achieved, it is worth mentioning the impact of the 900 Schools Programme on the learning capacity of schoolchildren according to the educational quality measurement system (SIMCE). The academic performance indicators as measured by the SIMCE test in primary schools in 1988 were used to select the first schools to run the programme in 1990. At that time, the average performance in Spanish and mathematics in the schools was 43.15%, a figure which rose to 60.91% in 1992, 61.62% in 1994 and 64.34% by 1996.

- **Other relevant disaggregated data on the children concerned, including on education outcomes, inter alia by gender, age, region, rural/urban area, and national, ethnic and social origin.**

904. There has been a steady increase in the number of children incorporated in the system in recent years. The enrolment figure has increased in practically all levels and regions of the country, as shown in Tables 29 to 33.

Table 29
Total enrolment each year according to region - 1993-1996

Region	*1993*	*1994*	*1995*	*1996*
I	85,276	87,515	91,447	93,264
II	99,781	99,810	104,172	106,918
III	57,171	58,486	61,108	62,687
IV	120,318	124,442	130,298	133,815
V	318,807	327,248	36,694	340,902
VI	156,857	160,488	165,546	169,636
VII	185,675	189,463	195,176	201,058
VIII	397,248	398,906	405,630	417,350
IX	185,760	188,232	94,532	199,128
X	210,548	211,426	221,783	226,988
XI	18,708	18,878	20,412	21,191
XII	32,061	32,374	32,625	33,586
Metropolitan	1,139,418	1,150,304	1,152,304	1,264,091
Total	3,007,628	3,047,572	3,111,727	3,270,614

Source: MINEDUC statistics (1996).

Table 30
Enrolment distribution by sex and level - 1993

	Preschool	*Special*	*Primary*	*Secondary*	*Total*
Male	130,219	19,125	1,056,650	318,815	1,524,511
Female	126,129	13,294	1,009,396	334,298	1,483,117
Total	256,348	32,419	2,066,046	652,815	3,007,628

Source: MINEDUC statistics (1993).

Table 31
Enrolment distribution by sex and level - 1996

	Preschool	*Special*	*Primary*	*Secondary*	*Total*
Male	147,122	22,126	1,132,676	362,060	1,663,984
Female	142,640	14,318	1,072,416	377,256	1,606,630
Total	289,762	36,444	2,205,092	739,316	3,270,614

Source: MINEDUC statistics (1996).

Table 32
Enrolment distribution by region and geographic area - 1993

Region	*Urban*	*Rural*	*Total*	*% Rural*
I	79,850	5,426	85,276	6.36
II	99,332	449	99,781	0.45
III	55,569	1,602	57,171	2.80
IV	98,068	22,250	120,318	18.49
V	295,798	23,009	318,807	7.22
VI	119,004	37,853	156,857	24.13
VII	135,767	49,908	185,675	26.88
VIII	333,413	63,835	397,248	16.07
IX	144,230	41,530	185,760	22.36
X	155,385	55,163	210,548	26.20
XI	17,101	1,607	18,708	8.59
XII	31,075	986	32,061	3.08
Metropolitan	1,081,354	58,064	1,139,418	5.10
Total	2,645,946	361,682	3,007,628	12.03

Source: MINEDUC statistics (1993).

Table 33
Enrolment distribution by region and geographic area – 1996

Region	*Urban*	*Rural*	*Total*	*% Rural*
I	84,604	8,660	93,264	9.29
II	106,398	520	106,918	0.49
III	60,120	2,567	62,687	4.09
IV	110,689	23,126	133,815	17.28
V	317,160	23,742	340,902	6.96
VI	133,167	39,469	169,636	23.27
VII	150,100	50,958	201,058	25.34
VIII	353,671	63,679	417,350	15.26
IX	158,877	40,251	199,128	20.21
X	171,308	55,680	226,988	24.53
XI	19,629	1,562	21,191	7.37
XII	32,725	861	33,586	2.56
Metropolitan	1,202,909	61,182	1,264,091	4.84
Total	2,898,357	372,257	3,270,614	11.38

Source: MINEDUC statistics (1996).

107. Reports should also indicate the particular measures adopted:

- **To make primary education compulsory and available free for all, particularly children, indicating the minimum age for enrolment in primary school, the minimum and maximum ages for compulsory education, the proportion of children enrolled, who complete primary education, as well as any relevant disaggregated data including by age, gender, region, urban/rural area, national, social and ethnic origin, service coverage and budgetary allocation;**

905. Article 10 of the Constitution stipulates that primary education is compulsory. It makes the State responsible for "...financing a system to achieve that objective, which shall be free of charge and shall allow access to the whole population...", which is equivalent to stating the principle that primary education is compulsory, available free to all and provided by the State.

906. Children are admitted at the different levels and for the different streams at the following ages:

(a)	preschool education, second transition:	5 years
(b)	general primary education, first year:	6 years
(c)	secondary education - humanistic/scientific and technical/vocational, maximum age:	18 years.

907. Pupils must have completed primary education or equivalent studies before they are admitted to secondary school.

908. In the case of differentiated special education, all persons suffering disabilities are admitted to educational facilities, without any minimum age requirement. The maximum age for remaining in special education is 24 years, completed during the school year. For adult primary education, the minimum age for admission is 15.

909. The age limits may differ in the case of adult education and special education, which may be specified by supreme decree issued by the Ministry of Education.

- **To encourage the development of different forms of secondary education, including general and vocational education, and measures adopted:**

  - **To make such forms available and accessible to every child, providing inter alia any relevant disaggregated data including by gender, age, region, rural/urban area, national, social and ethnic origin, coverage and budgetary allocation;**

910. In order to ensure access to secondary education, the Ministry of Education has introduced a Special Grants Programme for children in that age bracket.

911. The main objective of the programme is to help low-income secondary school students by providing them with a package of benefits (food, school materials, health care, PAA assistance and prizes) with a view to reducing school dropout and improving classroom performance and attendance. The programme has been operating since 1992.

912. Its main achievements have been more emphasis on regional aspects, as well as on health care, which has been very well received.

913. It is hoped that from 1998 there will be a possibility of increasing resources, while trying to concentrate beneficiaries in the more vulnerable sectors.

Table 34

Year	*Beneficiaries*	*Location*	*Budget (Ch$ million)*
1994	100,000 food rations 100,000 sets of school materials 14,500 PAAs 10,000 health care 130 prizes	All regions	1,374
1995	100,000 food rations 100,000 sets of school materials 14,500 PAAs 10,000 health care 130 prizes	All regions	1,485
1996	110,000 food rations 110,000 sets of school materials 14,500 PAAs 11,000 health care 130 prizes	All regions	1,581
1997	14,500 PAAs 11,000 health care 130 prizes	All regions	438*

Source: Grants programme

* In 1997 most of the budget was transferred to JUNAEB (food and materials).

914. In secondary education, it is worth mentioning the Programme for the Improvement of Quality and Equity in Secondary Education (MECE-Media), which aims to enable secondary schools to provide good quality education for all. The programme focuses on secondary schools, in order to facilitate working conditions which allow principals and teachers more responsibility in the pursuit of better education for their students.

915. The programme is applied in all secondary schools that receive State subsidies, whether municipal or private, so that altogether more than 90% of students in secondary education in the country benefit directly. The incorporation of secondary schools in the programme has been gradual. In 1994, a pilot experiment was conducted with 124 secondary schools spread across the country. Then in 1995, the programme proper was launched, incorporating 201 new secondary schools. In the last two years, coverage was extended to 95% of schools. Thus, in 1997, most secondary schools, both humanistic/scientific and technical/vocational, have been able to initiate the educational changes required for secondary education. Taking enrolment as a whole, this means that the new system covers more than 600,000 students in secondary education.

916. The programme has adopted a systemic approach, aiming to provide a minimum amount of resources to ensure educational standards of satisfactory quality, to develop the professional base of the system and to increase the independent design and development capacities of secondary schools, while readjusting certain background features so as to facilitate changes.

917. In other words, the programme concentrates on secondary schools, and has adopted cultural change as its ultimate target, so that it attempts to offer as many opportunities as possible to enable individual schools to meet their objectives. The following changes may be mentioned:

(a) From the observance of rules to a sense of responsibility for results.

(b) From individual work and pyramid-shaped organization to teamwork and network organization.

(c) From a culture of compartmentalization and self-reference to a culture of communication.

(d) From novelty and change seen as a form of interruption and noise to novelty and change welcomed as an opportunity for permanent improvement.

(e) From change as the implementation of a "recipe" or panacea to open systems for diverse searching, experimenting and incremental improvement.

(f) From evaluation seen as a threat and a risk to evaluation welcomed as a necessary and permanent tool of effective action in a rapidly changing medium.

918. The programme combines a variety of activities to achieve this objective: direct action by the Ministry on internal procedures in secondary schools (better educational and directional management, young people); the introduction of incentives and competitive elements (Educational Improvement Projects); the input of leaning resources (libraries and teaching materials; books; educational computing); the establishment of support networks (technical educational assistance). These various programmes should operate systemically, reinforcing each other, renovating traditional practices and opening up avenues for new practices.

919. Through the educational management programmes, secondary schools are given a capacity for constant renewal of teaching and learning, with a view to becoming more effective in their aim of achieving individually and socially relevant, good quality education. Professional Working Groups (GPT) are set up in secondary schools, offering teachers an opportunity and the facility for educational discussion as part of routine practice in secondary schools. This facility, which is seen as the central support of professional development, ensures the improvement of teaching practices, by moving on from the image of an essentially technical and isolated teacher to that of a real professional working with a team.

920. At present, more than 3,300 of these Professional Working Groups have been set up, in which 44,000 teachers in subsidized secondary schools in the country have taken part. The work of these groups in each school is coordinated by the head of the technical educational unit, under the guidance of the supervisor.

921. Another basic feature of educational policy, in particular with respect to institutional relations, has been the directional management of secondary schools. The effect has been to strengthen the ability of management teams to generate institutional development by placing the emphasis on participative teamwork.

922. Through a series of optional curriculum activities (ACLE), students in secondary schools are offered the opportunity to create and to develop social skills and a better knowledge of themselves and of the world around them. This extends the range of possibilities open to young people, while it improves their self esteem and helps them adapt better to the school system.

923. To date, this programme has achieved a coverage of some 130,000 young people in different areas. It includes the organization of courses and workshops that cater for a variety of interests on the part of young people in the areas of art, sport, the environment, communications and leadership training. It implies developing communication links between teachers and pupils, and between the community and the secondary school. In addition to workshops, the programme runs teaching courses for teachers and local teams (more than 1,700 teachers), as well as for student leaders (3,774 youths). It further organizes a student network through different channels, and publishes a bulletin under the title "Buenas Vibras" (Good Vibes), with the contributions of young students attending secondary school.

924. In order to facilitate reading, access to knowledge, the development of creativity, the use of teaching materials and research abilities, the programme has been either setting up or improving libraries in all the country's subsidized secondary schools. This plan to promote libraries and teaching materials aims gradually to make available the best materials in the marketplace for secondary education, with strategies for use by teachers and students.

925. During the school year, secondary schools subscribe to a collection of newspapers and reviews, which they choose directly. This gives students and teachers a chance to access information about current affairs. All secondary schools nowadays receive a new collection of printed and audiovisual material. This includes encyclopaedias and dictionaries, scientific and technical material, support material for the social sciences and a great variety of modern literary works. In the first half of 1998 and of 2000, new collections will be added to these libraries, chosen by the schools themselves. Thanks to these inputs, the libraries become real centres of learning resources, which provide effective support for the process of educational innovation.

926. In accordance with a basic equipment and infrastructure plan, new spaces are being either created, extended or built in secondary schools so as to turn libraries into focal points of educational development. To achieve this, the libraries have also been equipped with the necessary furnishings (in

terms of shelving, reading tables, chairs, cushions, etc.). As support for the programme's other activities, resources and furnishings have been distributed to help improve computing rooms and teachers' common rooms.

927. Another feature of the programme has been the development of new textbooks, reflecting the preparation of a new curriculum and further facilitating the educational changes that are being introduced. In March 1997, all students and teachers in the first year of subsidized secondary schools received new textbooks in mathematics and in language and communication. In subsequent years, other subjects will be covered such as English, natural sciences and social sciences, until all levels of secondary education are equipped.

928. The Ministry of Education's educational computing network, ENLACES, is aiming, according to its target for the year 2000, to ensure that 100% of all secondary schools and 50% of all primary schools, i.e. approximately 5,000 subsidized schools in all, are interconnected with each other and with the rest of the world, regardless of their geographic location, making up a nationwide educational community.

929. The Educational Improvement Projects (PME), in both primary and secondary education, are to some extent part of the policy of educational innovation and decentralization aimed at improving education. These PME projects have constituted a major challenge for school teachers and principals. The preparation of projects in the course of discussions between Professional Working Groups has encouraged teachers to adopt new attitudes to their professional work and to knowledge, in the recognition that there is no end to learning and that therefore knowledge has to be constantly updated. In addition to setting up their projects and developing innovations in selected areas in line with their Institutional Education Projects, teachers learn to differentiate between means and ends and to assume responsibility for the product of their activities.

930. Lastly, a further innovation which is unprecedented in our educational system has consisted in the Ministry of Education providing secondary schools enrolled in the MECE-Media programme with financial resources to hire the services of technical education assistants. This has given secondary schools the opportunity to take on technical assistants, thus breaking out of their traditional isolation and strengthening the links between teaching teams and other institutions and universities, which can help them find answers to their problems. As far as the universities are concerned, coming into contact with educational practice in secondary schools has meant an opportunity to adjust theoretical considerations to the real requirements of the system. The effect has been to build a more horizontal relationship between academics and school teachers.

931. At this stage, the main achievements of the MECE-Media programme may be summarized under two headings: on the one hand, there has been an improvement in the resources and working conditions in schools, and on the other hand an improvement in the processes and results of teaching and learning for secondary school students.

932. Lastly, it is worth pointing out that in May 1996, the President of the Republic announced the Government's decision to invest an additional sum of approximately USD 1,500,000,000 in education, for the purpose, amongst others, of setting up a network of secondary schools offering special characteristics in terms of quality, ability to innovate and care for young people from lower income families. These were the "anticipation schools", which were later incorporated by the Ministry of Education in a new programme: the Montegrande Project.

933. The project is intended to assist a number of secondary schools equivalent to the enrolment of some 40,000 students, in other words between 35 and 60 schools. These selected schools, which are situated in all regions of the country, are offered especially promising projects, aimed at innovation,

quality and greater equity. External support will be provided by local communities, businesses and institutions of higher education. Through this programme, the Ministry of Education has been trying to establish a "backbone" of institutions that will encourage the rest to adopt "better practices", in terms of both teaching and management.

- **To introduce free secondary education and offer financial assistance in case of need, indicating the children concerned, including by gender, age, region, rural/urban area, and national, social and ethnic origin, and the budget allocated for that purpose;**

934. See paragraphs 910 to 933 above.

- **To make higher education accessible to all on the basis of capacity, indicating inter alia the rate of access to higher education by age, gender and national, social and ethnic origin;**

935. In order to make higher education accessible to all in 1997, on the initiative of government parliamentarians, a proposal was put forward and unanimously approved for the Indirect Fiscal Contribution (AFI) to be based on an equal weighting of PAA (academic aptitude test) scores and secondary school marks. The AFI is the contribution the State makes to universities in order to enrol students with better PAA scores.

936. This programme has had the effect of reducing the gap between students leaving private paid colleges - who are guaranteed admittance to university in return for payment of a sum of money - and students leaving public and private subsidized schools, who obtained good marks in secondary education but not enough points in their PAA test. It has been calculated that applying the AFI according to the original scheme in fact prevented access to universities for the best students leaving subsidized private colleges and municipal schools, which affected some 20,000 students a year.

937. In this way it is just as worthwhile for a university to admit students who have been among the best performers in secondary education as well as students whose performance in secondary school was not so outstanding. This represents a significant advance in terms of equity, since it offers students from poor schools, who generally obtain lower marks, more possibilities of obtaining a place at university.

938. The list of students benefiting from the indirect fiscal contribution (AFI) has increased from 20,000 to 27,500.

- **To make educational and vocational information and guidance available and accessible to all children, indicating, inter alia, the forms of such information and guidance, the mechanisms used to assess their effectiveness, the budget allocated for that purpose, as well as any relevant disaggregated data, including by age, gender, region, urban/rural area, and social and ethnic origin;**

939. With regard to information and guidance in educational matters, starting in 1998 the Ministry of Education will launch a campaign to inform mayors, the leaders of social organizations and non-governmental organizations about non-formal projects, in order to create more awareness with regard to children and to suggest practical programmes which can conveniently be applied in the communities.

940. It is worth pointing out that every Ministerial Regional Secretariat of Education is obliged - by order of the Ministry - to maintain an office that makes available all the information children may

need about educational and especially vocational matters (information providing informed access to higher education).

941. In addition, educational and cultural information offices have been introduced since 1996. This initiative is aimed at improving and extending the information service currently provided by the Ministry of Education to its customers and users, such as parents, students and teachers. It also aims to supply more information purely about "formalities", aiming for a system that guides and facilitates users' decisions. By 1998, ten such offices will be operating, located in different branches of the Ministry, especially in provincial departments and ministerial regional secretariats. In practical terms, these offices provide an information service on a variety of subjects, such as: the options available for different levels and their characteristics, quality of service, benefits of the system, guidance for specific administrative procedures, school regulations, etc.

- **To encourage regular attendance at school and to reduce drop-out rates, including research, any mechanisms developed to assess the situation, and incentives provided to encourage school entrance, regular school attendance and school retention, any alternatives provided for children who are excluded from school, as well as other relevant data disaggregated by age, gender, region, urban/rural area, and social and ethnic origin.**

942. The School Food Programme (PAE), the Programme for Boarders and the grants programmes mentioned earlier are all mechanisms that encourage school entrance and improve retention of children in the school system.

943. With regard to alternatives provided for children who are excluded from school, it is worth mentioning the job training programme for young people.

944. The objective of this programme is to offer an economic and social start to young people who face problems of exclusion from work, by providing free training opportunities. The target beneficiaries are young people between the ages of 15 and 24 from low-income families, who are either unemployed, underemployed and in any case idle, but willing to work and who find themselves outside the regular school system. The programme is run by the Ministry of Labour and Social Welfare, assisted by other public bodies such as the National Training and Employment Bureau (SENCE), the National Solidarity Fund for Social Investment (FOSIS) and the Ministry of Education, as well as agents (training institutions, companies), and support organizations (municipal placement offices).

945. The training subprogrammes are:

- Training and work experience in enterprises (CEL)
- Training and preparation for young people (FCJ)
- Training for independent work (CTI)
- Alternate learning (AA).

946. The tables below show the historic development of these initiatives from 1993:

1993						
Other bodies		SENCE				FOSIS
Subprog.	Total	Total SENCE	CEL	CTI	AA	FCJ
Courses	1,819	1,455	1,244	211	-	364
Numbers	34,964	28,332	24,320	4,012	-	6,632

Source: MINEDUC statistics, 1996.

1994						
Other bodies		SENCE				FOSIS
Subprog.	Total	Total SENCE	CEL	CTI	AA	FCJ
Courses	1,285	1,030	854	101	75	255
Numbers	24,699	19,962	16,639	1,859	1,464	4,737

Source: MINEDUC statistics, 1996.

1995						
Other bodies		SENCE				FOSIS
Subprog.	Total	Total SENCE	CEL	CTI	AA	FCJ
Courses	937	641	500	84	57	296
Numbers	17,908	12,476	9,976	1,484	1,016	5,432

Source: MINEDUC statistics, 1996.

1996						
Other bodies		SENCE				FOSIS
Subprog.	Total	Total SENCE	CEL	CTI	AA	FCJ
Courses	1,201	981	860	58	63	220
Numbers	22,515	18,439	16,102	1,029	1,308	4,076

Source: MINEDUC statistics, 1996.

108. Reports should also provide information on any category or group of children who do not enjoy the right to education and the circumstances in which children may be excluded from school temporarily or permanently (for example disability, deprivation of liberty, pregnancy, HIV/AIDS infection), including any arrangements made to address such situations and to ensure alternative education. Disaggregated data should be provided, including by age, gender, region, rural/urban area, and social and ethnic origin.

947. According to the terms of article 10 of the Political Constitution of the Republic of Chile, the State ensures access to education for all. In addition, the right to education is the guiding principle of the educational programme of President Eduardo Frei's Government. Education is assumed as a right and not as a privilege. It is for these reasons that there is no category of children or young people in Chile who does not enjoy the right to education.

948. Nevertheless, according to the figures of the 1996 CASEN survey, there are 2,527,914 persons between the ages of 0 and 24 (officially the school age) in Chile who are not incorporated in the school system.

949. This population may be broken down as follows, according to the age groups that officially correspond to education levels:

(a) In the 0-5 age group, 1,193,435 children are not incorporated in the school system, amounting to 76.1% of the age group. Disaggregated by area, 73.4% in urban areas are affected and 89.8% in rural areas. If the figures are disaggregated by socio-economic stratum (quintiles), the following picture emerges:

((b) In the 7-13 age group, which officially corresponds to primary school, 1.1%, equivalent to approximately 20,764 children, are not enrolled. For urban areas the percentage is 0.8% and for rural areas 2.4%. Disaggregating by poverty threshold, the proportion for indigent children from 7 to 13 years old is 2.6%, for non-indigent poor children 1.6% and for non-poor children 0.7% not enrolled in the school system.

(c) The population of children between the ages of 14 and 17 that is not enrolled in the school system amounts to 143,103 young people, representing some 14.0%. For urban areas, the non-enrolment is 10.6% and for rural areas 27.8%. If the situation for this age bracket, which officially corresponds to secondary school, is analysed according to socio-economic strata (income quintiles), the following picture emerges.

950. On this subject, it is worth mentioning the efforts made by the JUNJI to reintegrate excluded children, who either suffer from disabilities or who belong to ethnic minorities, through the implementation of specific programmes, in addition to the implementation of policies related to the resettlement of children and their families affected by HIV, risk prevention and drug addiction.

951. A useful programme from the point of view of eliminating discrimination among children has been the design and distribution of 80,000 folders to educators and parents, and 15,000 posters for schools and kindergartens. This programme has been run jointly by the Ministry of Education, JUNJI and INTEGRA.

952. On 27 February 1991, instructions were issued in Circular 247 on assistance that should be given to pupils who change their civil status and to girls assuming the responsibilities of motherhood, in order to help them stay on in the regular education system. Statistical surveys have also been made at national, regional, provincial and communal level about early pregnancies in primary and secondary schools, considering all parts of the system, with a view to conducting comparative diagnosis and analysis studies on data concerning this problem. The main achievement has been to retain a significant number of pregnant girls and/or mothers in all parts of the primary and secondary school system.

109. Please indicate all appropriate measures taken pursuant to article 28, paragraph 2, to ensure that school **discipline is administered in a manner consistent with the child's human dignity and in conformity with the Convention, including:**

- **Legislation applying to public and private schools and other education institutions and prohibiting all forms of violence, including corporal punishment, as well as any other disciplinary** measures **which are not consistent with the child's human dignity or in conformity with the provisions of the Convention, including articles 19, 29 and**

37 (a), and its general principles particularly of non-discrimination, best interests and respect for the views of the child;

- **Any monitoring system of the administration of the school discipline, as well as mechanisms of reporting and complaint;**

- **Any independent mechanism established for that purpose;**

- **Legislation providing the opportunity for the child to participate in administrative or judicial proceedings relating to education and affecting him or her, including those relating to the choice of school, school exclusion.**

110. With regard to article 28, paragraph 3, please provide information on the measures adopted to promote and encourage international cooperation in matters relating to education, in particular with a view to:

- **Contributing to the elimination of ignorance and illiteracy throughout the world;**

- **Facilitating access to scientific and technical knowledge and modern teaching methods;**

- **Taking particular account of the needs of developing countries.**

953. Our country has signed bilateral and multilateral agreements and treaties in the field of cultural, educational and scientific and technical cooperation with several countries, all of which are still effective, especially those relating to further vocational training.

954. In April 1997, an agreement was signed between the Ministries of Education of Chile and France concerning cooperation in the field of education, in order to continue further training activities for secondary school teachers and educational principals as part of the grants programme of the Chilean Ministry of Education.

955. In October 1996, a memorandum of understanding was signed between the Chilean Ministry of Education and the British Council - acting as the main cooperation agency of Her Majesty's Government for cultural affairs abroad - in the field of education, in order to facilitate the enrolment of nationals in pre- and postgraduate courses.

111. Reports should also indicate the activities and programmes developed, including at the bilateral and regional levels, the target groups identified, including by age, gender and national, social and ethnic origin, the financial assistance provided and/or received and the priorities established, and the consideration given to the aims of education as identified by article 29 of the Convention, as well as any evaluation made of the progress achieved and of the difficulties encountered. Mention should be made, whenever appropriate, of the involvement of United Nations organs and specialized agencies and non-governmental organizations.

956. The requested information is included under several headings in this chapter.

B. Aims of education
(article 29)

112. Please indicate the legislative, administrative, educational and other measures adopted to ensure that the aims of education established in the State party are consistent with the provisions of this article, in particular with regard to:

- **The development of respect for the child's personality, talents and mental and physical abilities to their fullest potential;**
- **The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations, indicating whether the subject of human rights in general, and children's rights in particular, has been incorporated in the school curricula for all children and promoted in school life;**

Human rights in the school system

957. Whatever changes and innovations are introduced across the education system will never be sufficient unless they are backed by the deep conviction of every teacher working in the country's primary and secondary schools. Education in human rights therefore appears nowadays as an unquestionable task, since there is an increasing awareness of the importance of creating educational systems that will help to train outstanding individuals able to take a constructive part in public life.

958. In this connection a scheme has been established to provide teachers with further training through workshops specializing in human rights, with a view to benefiting educators all over the country. These workshops were implemented with the help of regional education secretariats.

Concerning children's views and their participation

959. Through the above programming policies, the present Government has added the principles of participation and social responsibility to the educational principles contained in Chilean legislation.

960. Decree 524 of 1990 approved the general regulation for the organization and operation of student centres in secondary schools, with a view to providing channels of expression and participation that voice the concerns and needs of young people.

961. Within the framework of the Parliamentary Assembly for Latin America and the Caribbean, which took place in the city of Concepción in 1996, the Secretariat for Education of the region, together with other institutions working for children, held an Assembly of Children, alongside the Assembly of Parliamentarians, at which children were able to express their views, about how they experienced their rights in practice, and to explain to parliamentarians the situations which caused them greatest concern.

962. That initiative created an awareness of the need to set up a regional organization for the participation of children and young people in the region of Bio-Bio. As a result, a group of children attending the Assembly were asked to lay the foundations of such a body, which was to be know as the Regional Parliament for Children and Young People.

963. The objectives of the Parliament for Children and Young People of the region of Bio-Bio are as follows:

(a) To provide an area of participation for representatives of children and young people in the region, in order to give them the opportunity to exercise the right to express their views and to put forward suggestions about matters that are of concern to them.

(b) To provide a space for personal development and civic training, facilitating their participation.

(c) To provide an area for the expression of opinions and suggestions regarding the subject of education so as to generate feedback and to convey the views of children and young people on regional education.

- **The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she originates and for civilizations different from his or her own;**

964. The Ministry of Education encourages families to participate in decisions and actions of the school system by strengthening the role of the Centros de Padres y Apoderados (Parents and Representatives Centres, or CPA) and the participation of families in schools. A strategy for strengthening the CPA has therefore been designed and validated, benefiting 900 managers of such centres in subsidized primary and secondary schools in Regions IV, VIII, XI and Metropolitan. In addition, 1,100 CPA directors have held meetings with education authorities in Regions V, VIII and Metropolitan.

965. In terms of management, it has been proposed to extend the coverage of actions undertaken by parents' centres in all regions of the country, with a view to producing educational materials, printed material and videos for distribution in all regions and provinces and to integrate activities conducted with parents in school management policies.

966. A seminar was organized jointly by SERNAM and the Ministry of Education under the title "Dialogues between the family and the school: Creating areas of participation for mothers and fathers". The seminar brought together the various actors involved in educational reform, such as teachers, parents, school principals, municipal officials, as well as professionals designing programmes at the Ministry of Education on a central level.

967. With regard to the respect for and participation of parents, it is worth mentioning the programme "Manolo and Margarita Learn With Their Parents", which is a response to the need for the school to take account of the family in its educational work, thereby also facilitating the work of the teachers. The intention is to strengthen school admittance in conjunction with the 900 Schools programme as part of the policy of creating links between preschool and primary. The programme provides material in support of teachers' work with the parents and has so far benefited 26,845 families (i.e. 26,845 children between the ages of 4 and 6) and 1,586 schools. An important achievement of the programme has been the fact that a preschool initiative has been extended to the first year of primary school, thus supporting efforts to strengthen links between preschool and primary. More audiovisual material (in the form of 2,446 cassettes) was added to the original material on topics such as language, school, family, sexuality and games. In 1998, an assessment will be made of the impact the programme has produced on the cognitive learning of children.

- **The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;**

- **The development of respect for the natural environment.**

968. The Political Constitution of the Republic of Chile, in its article 8, establishes the right to live in a pollution-free environment. The State is responsible for ensuring that this right is respected and for monitoring its implementation. Within that framework, some new environmental topics have been incorporated in the new curricula, chiefly as part of the minimum compulsory contents (CMO) for science subjects. It is also feasible in the other sectors and subsectors of the Vertical Basic Objectives to adapt aims and contents to environmental aspects of education. Environmental subjects are also explicitly contained in the Transversal Basic Objectives (OFTs), particularly with regard to relations between human beings and their environment.

969. In addition, since 1982 the Ministry of Education has been running the Environmental Education Programme, which has endeavoured to provide a comprehensive approach to the environment through its Interdisciplinary Learning Cycles, with a view to encouraging knowledge, attitudes and skills favourable to environmental protection. The programme has provided support for environmental education projects and environmental PMEs and for the development of environmentally sustainable technology in technical and vocational schools. Its main achievements have been the incorporation of environmental subjects throughout education (with national and regional authorities, supervisors, teachers, pupils, parents and representatives, amongst others); the production of educational material relevant to environmental conditions in Chile; and the strong motivation of teachers and students. It is hoped in the future to incorporate environmental subjects on the Internet and ENLACES and to make more progress towards incorporating environmental education in productive areas of technical and vocational education.

113. Reports should also indicate:

- **The training provided to teachers to prepare them to direct their teaching towards these aims;**

- **The revision of school policies and school curricula to reflect the aims identified in article 29 at the various levels of education;**

- **Relevant programmes and material used;**

- **Any peer education and peer counselling promoted;**

- **Efforts made to bring school organization in line with the Convention's principles, for example mechanisms created within schools to improve the participation of children in all decisions affecting their education and well-being.**

970. No direct training for teachers is provided in this subject, but the guidance the Ministry of Education offers for educational activities, the design of programmes and other aspects of educational work to a great extent meet the requirements of the Convention.

114. Please indicate the measures adopted pursuant to article 29, paragraph 2, to ensure respect for the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirements that the education given in such institutions conforms to such minimum standards as are laid down by the State.

971. The Political Constitution of the Republic of Chile, in article 19, paragraph 11, establishes that the freedom of education includes the right (for any natural or legal person) to open, organize

and maintain educational establishments subject to no constraints except those of good morality, good customs, public order and national security.

972. The requirements for official recognition of educational establishments at all levels are contained in the Constitutional Organization Act on Education (LOCE).

115. Reports should also provide information on the appropriate mechanisms developed to:

- **Ascertain that the aims of education identified by the Convention are respected by such institutions;**
- **Ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, survival and development to the maximum extent;**
- **Ensure that all such institutions are conducted in conformity with standards established by competent authorities, particularly in the areas of safety, health, number and suitability of staff, as well as of competent supervision.**

973. The Ministry of Education is constantly concerned with fulfilling those requirements, and maintains permanent supervision through the Regional and Provincial Secretariats of Education.

116. Reports should further provide information on the progress achieved in the implementation of this article, difficulties encountered and targets set for the future.

974. See paragraphs 966 to 974 above.

C. Leisure, recreation and cultural activities
(article 31)

117. Please provide information on the measures adopted, including of a legislative nature, to recognize and ensure the right of the child to:

- **Rest and leisure;**
- **Engage in play and recreational activities appropriate to the age of the child;**

975. Actions have been undertaken by the General Directorate for Sports and Recreation (DIGEDER), an institution which is responsible for taking steps to increase sports activities, as a way of improving the quality of life of Chileans and assisting the international performance of the most skilled sportsmen, by introducing schemes of encouragement and cooperation among public and private institutions.

976. The actions undertaken so far have included the following:

(a) Sports Training Unit

977. Sports Training is understood as consisting in teaching and learning activities run by teachers with the aim of developing physical exercise in children and young people, as well as the acquisition of abilities and skills related to individual sports, on a sound basis of ethics and rules. The objectives of sports training are:

(a) To ensure that most children and young people have better opportunities or suitable training for sport through the school system;

(b) To develop a national programme for the improvement of sports training for young people, children, university students and adults;

(c) To design and implement a national system for measuring physical aptitude for sport in primary, secondary and university education.

978. DIGEDER's Sports Training Unit was set up as such in 1996 and operates in 13 regions of the country, running programmes for young people and children.

979. From an organizational point of view, the programme is divided into four subprogrammes, each corresponding to an educational level in Chile's education system:

(a) Preschool physical education;

(b) Physical education and sport in primary school;

(c) Sport in secondary education;

(d) Sport in centres for minors;

(b) Competitive Sports Unit

980. In 1996, it was decided as a matter of policy that the Competitive Sports Unit should take part in the main competitions in the school, employment and higher education sectors. This unit works with children of 7 years and over. Its objective is to organize sports competitions at communal, regional and national level, ensuring high quality standards and broad coverage. Its activities have included:

- National School Games;
- Andean Games for Regions I and II (Chile, Bolivia, Peru);
- Araucanía Games, in the Province of Chalut, Argentina, with the participation of Regions VIII, IX, X, XI and XII.

(c) High Performance Sports Unit

981. The objective of this unit is to provide economic support in the form of personal grants to outstanding sports performers in the national education system. These children and young people must come in the top three places of national school sports championships or official federative championships. In 1997, the programme benefited some 530 children across the country.

982. It is also worth mentioning the activities conducted by JUNAEB through its school camps programme. This programme is intended for students in primary and secondary school, who are already in receipt of the School Food Programme. It provides accommodation and full daily food rations during the months of January and part of February. It also conducts recreational/educational activities and develops educational contents (see Table 35).

Table 35
Coverage and budget of the School Camps Programme

Yeat	*Beneficiaries*	*Budget allocation (Ch$ million)*
1994	41,914	670,896
1995	40,544	724,696
1996	46,028	797,026
1997	42,093	821,935

Source: JUNAEB Statistics Office.

- **Participate freely in cultural life and the arts.**

983. The Ministry of Education has an Out-of-school Education Department, which runs the following activities:

Project to encourage and develop optional educational activities

984. This project consists in setting up centres for optional educational activities in 360 primary schools in 90 communes across the country, that meet established requirements. In this way technical assistance and financial subsidies are provided to encourage and develop a group in each area of action. The general aim is, within educational units, to offer and develop a broad programme of optional educational activities, designed to meet the needs and interests of schoolchildren.

985. The project started with an allocation of Ch$ 250,000 per educational unit and Ch$ 1 million per commune, which added up to an overall total of Ch$ 90 million for 1997.

National Festival of Children's Dreams

986. This festival gives expression to activities conducted in artistic, civic/social, and science and technology fields. The interests and careers of students are combined with the application of knowledge and techniques, with an emphasis on work conducted within groups of optional educational activities. Its general aim is to create encouraging educational and recreational facilities to enable primary school students in all regions of the country to show - from their own perspective - the reality of their region to the national community as a whole, by exhibiting works carried out in groups of optional educational activities.

Methodological Integration of Out-of-school Groups in Programmes for Improving the Quality of Education

987. This project, on the methodological integration of out-of-school groups in Programmes for Improving the Quality of Education (IME) was launched in 1995. Its aim is to provide support for the training of groups of pupils undertaking optional educational activities, in 25 of the P-900 educational units in selected communes and regions of the country.

988. The main aim of training groups of students in activities based on their concerns and preferences in different areas of out-of-school action is to complement the school curriculum and to contribute to the full development of the children. The project therefore rests on the groups of optional educational activities, assisted by the joint participation of all the teaching staff and principals of all the schools involved in "Group Animation" Methodological Seminars, at Levels I and II, organized by the Out-of-school Education Department.

989. In 1995 and 1998, 25 educational units in five of the country's communes took part.

Open Summer School

990. The aim of this project is to organize recreational/educational activities for primary schools situated in urban and rural areas which are not provided with vacation facilities.

991. The project runs three basic types of activities:

(a) Organization, technical assessment, funding and supervision of the Ministry of Education's Out-of-school Education Department;

(b) Support by the National Council for School Assistance and Grants (JUNAEB) to provide food to the children involved;

(c) Provision of premises and additional material and/or financial resources made available by municipalities that support the project.

992. The Open Summer Schools operate in January and February, as planned. The project's budget is Ch$ 52,146 million (for 1997).

993. The programme begins in December by holding regional seminars for coordinators and monitors, in order to discuss objectives, the programme, administrative aspects, school insurance, etc.

994. The average number of children catered for by the Open Summer Schools came to 125 per school, which meant a total number of 7,250 children every day in the country as a whole. Assuming that each group of children stays for two weeks, the total number of beneficiaries in the season comes to approximately 14,500 children.

Nature School

995. The purpose of this project is to provide a stimulating experience for a group of children from fifth to eighth grade of primary school, coming from urban schools involved in the Project for Improving the Quality of P-900 Education.

996. The activity covers the Regions IV to X and Metropolitan. It consists in moving a complete course to a rural location, with the idea of holding all regular classes there, for three or four working days, in addition to the usual camping and recreational activities.

Prevention and School Security

997. The activities of this project are intended to encourage and develop a preventive culture in the country's schools. It provides information, specific technical assistance and training for staff in charge of security courses at different levels of the education system.

998. Activities so far have included:

(a) Providing information to 13 regions and 42 provinces, through the distribution of printed material.

(b) Holding training and organization sessions for the school security support network in 13 regions of the country.

(c) Developing the pilot plan for road safety education, implemented in 13 regions of the country, on the basis of two schools being selected per region, the choice being left to the Ministerial Secretariats to select schools with greater risks of traffic accidents or traffic congestion.

999. The two main public bodies involved in the area of cultural activities are the Cultural Division of the Ministry of Education and the Department of Libraries, Archives and Museums (DIBAM).

1000. The DIBAM has launched a number of programmes bringing young people into touch with their cultural heritage, placing the emphasis on literary creation. These activities have led to the following publications:

- XXIst Century Poets, an anthology published in 1996, including the works of 25 young poets from all over the country.
- XXIst Century Storytellers, a 1997 anthology including the works of 25 storytellers, mostly from Santiago.
- XXIst Century Storytellers, only for young people from the regions. To be published in 1998.
- XXIst Century Playwrights, anthology to be published in 1999.
- Dictionary of the Spoken Language in Chile, a project undertaken jointly by the DIBAM and the Chilean Academy of Language.

1001. The first phase of research into the spoken language in Chile began in 1997 and is due to run till the year 2000, leading to the publication of a dictionary.

1002. Other programmes have been implemented to bring young people and children into touch with the cultural heritage, with the emphasis on musical interpretation and composition, such as:

- Cycle of musical interpretation on the piano, "To Warsaw in the year 2000", organized by the DIBAM and the Chopin Society. These cycles have been organized since 1993 each year.
- Musical cycles for young people (composition and interpretation).
- "Flora Guerra" piano competition, held in 1996 and 1997, in conjunction with the Chopin Society and the British Council.
- With the Modern School of Music, the Cultural Training Department of the DIBAM has been carrying out a series of concerts for various instruments, interpreted by young people, each year since 1995.

1003. In order to bring children and young people into touch with the cinema and film aspect of the cultural heritage, prizes were awarded to the winners of the "First Metropolitan School Video Competition", in conjunction with the Ministerial Secretariat of Education of the Metropolitan Region, a programme which is due to be developed further.

1004. In 1994 and 1997, the Ministry of Education, through its Culture Division, also carried out a number of activities benefiting Chilean children either directly or indirectly. The following may be worth mentioning:

- Competition of projects and children's literature of the National Book and Reading Council.
- Specific projects for children who passed the Artistic and Cultural Development Projects Fund Competition.
- Competitive fund for arts schools.
- Culture/adventure programme.
- National School Theatre Programme.
- National School Theatre Competitions.
- Support for the Cultural Centre for Balmaceda 1215 youths.
- Workshops and activities of the National and Regional Programme of the Roving Theatre and National Folklore Dancing.
- Folklore and painting workshops and competition for disabled children or children at social risk.

1005. The budget allocated to the Culture Division from 1994 to 1997 mainly went to the Book Fund and the Culture and Arts Development Fund (FONDART). The Arts Schools Fund was set up in 1997. The budget allocated to the Culture Division is as follows:

Table 36
Budget allocated to the Culture Division

Year	*Amount*
1994	2 781 779
1995	3 218 410
1996	4 133 266
1997	4 681 432

Source: Culture Division.

1006. For 1997, the Art Schools Fund had a budget of Ch$ 308,605 million to promote cultural activities in 17 art schools, benefiting 9,006 students and 510 teachers.

1007. There is also the Balmaceda 1215 Culture Corporation, that was set up to offer young people between the ages of 14 and 21, of limited means but possessing artistic talent, free facilities for the development and improvement of their abilities. This cultural institution runs workshops in Santiago and in the provinces, as well as arts training and services. Its most important activities have been as follows:

- Regular artistic workshops;
- Regional Workshops: Culture/Adventure Programme;
- Artistic training;
- Grants for higher art studies.

1008. Lastly, it may be pointed out that the Regional Workshops and the Culture/Adventure Programme are supported by the Ministry of Education through its Culture Division, with the participation also of the National Youth Institute. This activity is national in character and calls on distinguished Chilean artists. The workshops have been held for three years now. In 1997, the towns of Lota, Iquique, Puerto Montt and Punta Arenas were visited. In the years since it was set up, it has benefited 1,887 young people.

118. In this regard, reports should also indicate:

- **The proportion of the relevant overall budget allocated (at the central, regional, local and where relevant at the federal and provincial levels) for children;**
- **The cultural, artistic, recreational and leisure activities, programmes or campaigns developed and provided at the national, regional or local, and where appropriate at the federal and provincial levels, to ensure the enjoyment of this right including in the family, in the school and in the community;**
- **The enjoyment of the rights recognized by article 31 in relation to other rights recognized by the Convention, including the right to education;**
- **The respect ensured to the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, survival and development to the maximum extent;**
- **Relevant data on the children concerned, including by age, gender, region, rural/urban area, and national, social and ethnic origin;**
- **Progress achieved in the implementation of article 31, difficulties encountered and targets set for the future.**

1009. See reply to number 117 (paragraphs 975-1008 above).

VIII. SPECIAL PROTECTION MEASURES
(Articles. 22, 38, 39, 40, 37 (paras. (b) - (d), 32-36)

1. Refugee children (article 22)

119. Please provide information on the appropriate measures adopted pursuant to article 22, paragraph 1 to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures, whether unaccompanied or accompanied by his or her parents or by any other person, receives appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the Convention and in other international human rights or humanitarian instruments to which the State is a party.

1010. Chile has ratified the 1951 Convention on this subject as well as the 1967 protocol. Consequently this right is fully implemented by Chile. Every person, adult or child, seeking refugee status is treated in the same manner.

1011. At present there are no children seeking refugee status for themselves they enjoy that status by the fact of accompanying their parents.

120. Reports should also indicate:

- **The international and domestic law and procedures applicable to the child who is considered a refugee or is seeking asylum;**
- **Relevant international human rights and humanitarian instruments to which the State is a party, at the multilateral, regional and bilateral levels;**
- **The domestic legislation and procedures in place, including to determine refugee status and ensure and protect the rights of asylum seeking and refugee children, as well as any safeguards established and remedies made available to the child;**
- **The protection and humanitarian assistance provided to the child in the enjoyment of his or her rights set forth in the Convention, as well as in other relevant international instruments, including civil rights and freedoms and economic, social and cultural rights;**
- **The measures adopted to ensure and protect the rights of the unaccompanied child or of the child accompanied by his or her parents or by any other person, including in relation to temporary and long-term solutions, family tracing and family reunion;**
- **The measures adopted to ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible;**
- **The measures adopted to ensure appropriate dissemination of information and training on the rights of the child who is a refugee or is seeking asylum, particularly to the officials competent in the areas addressed by this article;**

- **The number of asylum seeking and refugee children disaggregated inter alia by age, gender, country of origin, nationality, accompanied or unaccompanied;**

- **The number of such children going to school and covered by health services;**

- **The number of staff handling refugee children who attended training courses to understand the Convention on the Rights of the Child during the reporting period, classified by type of job.**

1012. The legislation currently in force on this subject is:

- The 1951 Convention and the Protocol adopted in 1967;

- Act n° 19 476 dated 21 October 1955;

- Ministry of the Interior Regulation n° 597 of 1984 concerning aliens.

1013. A refugee child is treated in the same way as any Chilean child: he attends school as an ordinary pupil and may if necessary have recourse to the different social services.

1014. Chile has no programme relating to the provision of protection and humanitarian assistance for these children. However, the Chilean Catholic Migration Institute, a private non-profit-making body, is implementing a number of programmes in this area.

1015. As regards statistics on refugee children, it can be stated that in 1998 there were some 300 persons with refugee status. Of these, 150 were Peruvian and 20 Cuban; the others were from various African countries. Of the total, some 60 were children.

121. Please also indicate the measures adopted pursuant to article 22, paragraph 2 to provide cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to:

- **Protect and assist the child;**

- **Trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, please indicate the measures adopted to ensure that the child is accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the Convention.**

1016. Please see paragraphs 1010-1015 above.

122. Pursuant to this article, please also indicate any evaluation mechanism established to monitor the progress achieved in the implementation of the measures adopted, any difficulties encountered, as well as any priorities set for the future.

1017. Please see paragraphs 1010-1015 above.

2. Children in armed conflicts including physical and psychological recovery and social reintegration (articles 38 and 39)

1018. In recent years no situation of armed conflict has arisen in this country; consequently this point is not relevant to the current situation.

B. Children involved with the system of administration of juvenile justice

1. The administration of juvenile justice (article 40)

132. Please provide information on the legislative and other measures taken to recognize and ensure the right of every child involved with the system of the administration of juvenile justice (alleged as, accused of, or recognized as having infringed the penal law) to be treated in a manner:

- **Consistent with the promotion of the child's sense of dignity and worth;**
- **Which reinforces the child's respect for the human rights and fundamental freedoms of others;**
- **Which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society;**
- **Which ensures respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, survival and development to the maximum extent.**

133. With respect to article 40, paragraph 2, please indicate the relevant international instruments applicable in the area of the administration of juvenile justice, including at the multilateral, regional or bilateral levels, as well as legislative and other appropriate measures adopted to ensure in particular that:

- **No child shall be alleged as, accused of or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;**
- **Every child alleged as or accused of having infringed the penal law has at least the following guarantees, indicating, where relevant, additional guarantees provided to the child:**
    - **To be presumed innocent until proven guilty according to law;**
    - **To be informed promptly (indicating any time-limit fixed by law) and directly of the charges against him or her and, if appropriate, through his or her legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; in this regard, please indicate what other appropriate assistance may be made available to the child;**
    - **To have the matter determined without delay (indicating any time-limit fixed by law) by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance (indicating what other appropriate assistance may be made available to**

the child) and, unless it is considered not to be in the best interests of the child, in particular taking into account his or her age or situation, in the presence of his or her parents or legal guardians;

- **Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;**

- **If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;**

- **To have the free assistance of an interpreter if the child cannot understand or speak the language used;**

- **To have his or her privacy respected at all stages of the proceedings.**

134. Please indicate the measures adopted pursuant to article 40, paragraph 3 to promote the establishment of laws, procedures, authorities and institutions specially applicable to children alleged as, accused of, or recognized as having infringed the penal law, providing information inter alia on the areas addressed by legislation and procedures, as well as the functions, number and distribution throughout the country. Reports should in particular indicate the measures adopted to ensure a child-oriented system, including:

- **The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;**

- **Measures taken for dealing with such children without resorting to judicial proceedings, and to ensure that in such cases human rights and legal safeguards are fully respected, indicating the situations in which such a system applies and relevant procedures established for that purpose.**

135. Please indicate the variety of dispositions made available pursuant to article 40, paragraph 4, including care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other alternatives to institutional care, to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

136. Reports should further indicate the training activities developed for all professionals involved with the system of juvenile justice, including judges, prosecutors, lawyers, law enforcement officials, immigration officers and social workers, on the provisions of the Convention and other relevant international instruments in the field of juvenile justice, including the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

137. Relevant information should also be provided on the progress achieved in the implementation of article 40, any difficulties encountered and targets set for the future, as well as disaggregated data on the children concerned, inter alia by age, gender, region, rural/urban area, national, social and ethnic origin, offence and disposition made available.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (article 37 (b)-(d)

138. Please indicate the legislative and other measures adopted pursuant to article 37 (b) to ensure that:

- **No child is deprived of his or her liberty unlawfully or arbitrarily;** [26] **The arrest, detention or imprisonment of a child is in conformity with the law and is used only as a measure of last resort and for the shortest appropriate period of time;**
- **The general principles of the Convention are respected, namely non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible.**

139. Reports should also indicate the existing alternatives to deprivation of liberty, the frequency with which they are used and the children concerned, including by age, gender, region, rural/urban area, and social and ethnic origin.

140. Information should also be given on the measures and mechanisms established to:

- **Prevent the deprivation of liberty of children, including through arrest, detention and imprisonment, inter alia in relation to asylum seekers and refugees;**
- **Prevent the imposition of indeterminate sentences, including through their legal prohibition;**
- **Monitor the situation of the children concerned, including through an independent mechanism;**
- **Monitor progress, identify difficulties and set goals for the future.**

141. In this regard, information should further be provided on the number of children deprived of liberty, unlawfully, arbitrarily and within the law, as well as on the period of deprivation of liberty, including data disaggregated by gender, age, region, rural/urban area, and national, social and ethnic origin, and the reasons for such deprivation of liberty.

142. Please indicate the legislative and other measures adopted pursuant to article 37 (c) to ensure that any child deprived of liberty is treated:

- **With humanity and respect for the inherent humanity of the human person;**
- **In a manner which takes into account the needs of persons of his or her age.**

143. Reports should also provide information on the measures adopted and arrangements made to ensure that:

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[26] According to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, deprivation of liberty means any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by order of any judicial, administrative or other public authority (rule11 (b)).

- **The child deprived of liberty is separated from adults unless it is considered in the best interests of the child not to do so;**

- **The child has the right to maintain contact with his or her family through correspondence and visits (indicating the number of such contacts), save in exceptional circumstances, those circumstances being specified in the report;**

- **The conditions in institutions in which children are placed are supervised and monitored, including by an independent mechanism;**

- **Complaint procedures are made available to the child;**

- **A periodic review is made of the situation of the child and of the circumstances relevant to his/her placement;**

- **Education and health services are provided to the child;**

- **The general principles of the Convention are respected, namely non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible.**

144. Please indicate the measures adopted pursuant to article 37 (d) to ensure that every child deprived of liberty has the right to:

- **Prompt access to legal and other appropriate assistance, indicating inter alia whether there is any legal time-limit for such access to assistance and what other appropriate assistance may be made available to the child;**

- **Challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority;**

- **A prompt decision on any such action, indicating inter alia whether there is any legal time-limit for such a decision to be taken.**

145. Information should also be provided on the overall situation, as well as on the percentage of cases where legal or other assistance has been provided, and where the legality of the deprivation of liberty has been confirmed, including disaggregated data on the children concerned, including by age, gender, region, rural/urban area, and social and ethnic origin.

146. Reports should also indicate the progress achieved in the implementation of article 37 (b) to (d), difficulties encountered and targets set for the future.

3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (article 37 (a))

147. Please provide information on the measures adopted, at the legislative and other levels, to ensure that neither capital punishment nor life imprisonment without possibility of release is imposed for offences committed by persons below 18 years of age.

148. Please also indicate the progress achieved in the implementation of article 37 (a), difficulties encountered and targets set for the future.

1019. In Chile there are a number of legislative instruments relating to persons infringing the penal law. Their principal characteristics are dispersal and lack of doctrinal unity.

1020. In Chile there is no system of penal justice for juveniles as such; instead, there is a regime of protection for minors (Minors Act) and a penal regime for adults which in some cases is applicable to minors. The mechanism determining which system is to apply rests on two criteria: age and capacity of discernment.

1021. In general terms, the structure of the Chilean system is as follows:

(a) Depending on the age and capacity of discernment of a young offender, he will become subject either to the guardianship procedure provided for in the Minors Act or to the penal procedure for adults laid down by the Penal Code and the Code of Criminal Procedure (CPP). Children between ages 16 and 18 must previously undergo an examination to determine their level of discernment; this is a requirement to determine ability to stand trial.

(b) The guardianship regime is applicable to all child offenders under age 16 (and between ages 16 and 18 where the offender has been declared lacking in discernment).

(c) The penal regime for adults is applicable to young offenders over age 16 but under age 18 who have acted with discernment. The regime for adults is applicable to them without modification save that minority is deemed to be an extenuating circumstance to be taken into account when sentencing.

1022. The Constitution does not contain any provisions specifically applicable to minors. One may therefore conclude that the guarantees and rules laid down therein are applicable to all individuals, whether adults or minors.

1023. Article 1, paragraph 1, of the Constitution lays down the fundamental principle of human dignity and the equality of all individuals. This principle is subsequently (article 19) elaborated in its application to criminal responsibility. Paragraph 2 of that article establishes the principle of equality before the law and prohibits all forms of arbitrary discrimination in law or by any authority. These principles offer further evidence that the constitutional rights and guarantees are also applicable to children.

- Nº 1: The right of the individual to life and to physical and psychological integrity.

- Nº 2: Equality before the law. Neither the law nor any authority may establish arbitrary differentiations.

- Nº 3: Equality of protection in the exercise of their rights. This principle comprises the right to legal defence, including defence without charge; the principle of legality of the court which hears, examines and judges the case; the prohibition of the automatic assumption of criminal responsibility in law; the principle of legality of the penalty; and the principle of standardization of crimes and offences.

- Nº 4: The right of personal freedom and individual security. That right includes freedom of movement; the guarantee that no one may be deprived of liberty or be restrained except in the cases and forms specified in the Constitution and the law; the guarantee that no one may be arrested or detained except by order of the competent authority, save in cases of arrest; the right to release on bail; and the right of an accused person not to be required to give evidence on oath regarding his own case.

- N° 26: The guarantee that the legal provisions regulating the exercise of the rights recognized in the Constitution may not affect the essence of those rights.

1024. The Penal Code and the Code of Criminal Procedure lays down the penal regime applicable to adults; the rules applicable to minors it deals with only marginally. However, it does contain the fundamental principles governing the system: the rules for the determination and implementation of criminal responsibility.

1025. The Penal Code establishes the rules governing imputability, i.e., the rules by which the applicability or inapplicability of the penal regime for adult individuals is determined.

1026. The Code of Criminal Procedure lays down the procedure to be followed for the determination of imputability and for the trial and sentencing of persons deemed to be criminally responsible.

1027. As was mentioned earlier, to determine whether an individual is criminally responsible or not, the legislation currently in force rests on two criteria: age and capacity of discernment.

1028. The Penal Code regulates the situations of persons infringing penal law on the basis of rules fixing the age of criminal responsibility; these are contained in article 10 of the Penal Code, paragraphs 2 and 3 of which read as follows: "The following are exempt from criminal responsibility: minors under age 16, and minors between ages 16 and 18 provided that it is established that the person concerned has acted without discernment. The juvenile court concerned will make a statement on this point to be able to proceed with the trial."

1029. Thus under these rules all minors under age 18 are non-imputable and consequently cannot be held criminally responsible. The exception to this rule arises in the case of a juvenile between ages 16 and 18, who will be held criminally responsible if it is established that at the moment of committing the delictuous act he was acting with discernment; this is a matter for the juvenile judge to decide.

1030. A minor under age 16, and a juvenile between ages 16 and 18 who, in the opinion of the juvenile judge, has acted without discernment will be subject to the courts, procedures and measures provided for in the Minors Act.

1031. A minor between ages 16 and 18 who has acted with discernment will be subject to the courts, procedures and penalties established in the penal law applicable to adults.

1032. Briefly, it may be said that the formula used for purposes of declaration of non-imputability is a combination of biological and psychological criteria based on three presumptions, viz.:

(a) beginning at age 18: automatic presumption of full imputability ;

(b) under age 16: automatic presumption of absolute non-imputability;

(c) between ages 16 and 18: simple legal presumption of non-imputability, which may be invalidated if it is established by a special procedure conducted by a juvenile judge that the minor acted with discernment.

1033. The rules concerning proof of the age of the accused and the form of proceeding against an accused person who is a minor are laid down in article 349 of the CCP. This article lays down a number of rules and defines types of evidence. These rules are as follows:

- If the accused person is apparently under age 16, he shall immediately be placed provisionally at the disposal of the juvenile judge while investigations are conducted to ascertain his age and to proceed accordingly;
- If the accused person states that he is under age 18, or if the fact is known or presumed from another source, the judge shall order the inclusion of his birth certificate in his case file;
- The judge has a number of means (developed from Act n° 18 857 of 1989) of obtaining information on the age of a minor. In particular, he can call on various judicial and administrative authorities, even by telephone, to supply the information required; the authorities in question may reply in the same manner. In addition, article 1 of the Minors Act (n° 16 618) provides that, in the event of doubt over the age of a person who appears to be a minor, he shall be provisionally considered as such pending verification of his age.

1034. The procedure for declarations concerning discernment is based on articles 10 (paragraph 3) and 347 bis (a) of the Penal Code and articles 16, 26 (paragraph 8), 28 and 51 of the Minors Act (n° 16 618)[27], which stipulate that:

- It is the responsibility of the juvenile judge to rule in this matter;
- The declaration is a prerequisite for the start of criminal proceedings;
- To reach a decision on discernment, the judge must consult the Technical Council of the Minors' Institute or one of its members;
- The decision concerning lack of discernment is to be referred to the Court of Appeal where the charge carries with it a sentence of imprisonment. The court will make its ruling without further proceeding other than consultation of the public prosecutor except where further submissions are requested;
- If the juvenile has to be detained in an institution during the proceedings, he may only be detained in an Observation and Diagnosis Centre (COD) or, if there is no approved COD in the locality concerned, in one of the alternative premises designated in the Supreme Decree of the President of the Republic enacted in pursuance of article 71 of the Minors Act. However, he may be taken into care in a Transit and Allocation Centre (CTD) when detention is not called for;
- The detention of the juvenile during the proceedings for the declaration on discernment shall be considered as deprivation of liberty for all legal purposes, and the fact that proceedings are still pending does not debar the criminal court judge from releasing him if such a step is in line with the general regulations.

1035. The law does not specify whether the court competent to try a juvenile between ages 16 and 18 accused of a crime or offence is the criminal court judge or the juvenile judge. In practice it has become accepted that the criminal court judge will hear the case. Consequently the juvenile is brought before the criminal court judge, who conducts the initial investigations into the case; once it has been established that the juvenile is under age 18, he refers the juvenile to the juvenile judge, requesting the latter to give a ruling on discernment.

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[27] Article 347 bis of the Penal Code was introduced by Law n°18 857 of December 1989. Articles 16 and

1036. Another problem not settled by legislation is that of whether the judge should proceed directly to requesting a declaration on discernment or whether he should first of all rule on whether the requirements of article 274 of the CCP for the start of trial proceedings have been met. In the latter case, if insufficient evidence is assembled during the period of detention to warrant the opening of trial proceedings, the criminal court judge should release the juvenile on grounds of insufficient evidence without needing to seek a declaration on discernment. Case-law on the subject is also unclear. Some criminal courts verify that the requirements of article 274 of the CCP are met before referring the juvenile to the juvenile judge, whereas others immediately request a declaration on discernment without inquiring whether there are sufficient grounds for a trial.

1037. Finally, the law is unclear on whether the procedure for a declaration on discernment is a contentious or a non-contentious matter. In practice the matter is dealt with in accordance with the rules contained in the Minors Act and applying to non-contentious matters: oral proceedings without a formal judgement, but decisions must be taken with a full knowledge of the facts. The judge evaluates the evidence according to his conscience; he must hear the minor if possible; he may ask for any social, medical or psychological reports he considers necessary and make use of any other information medium he considers suitable. There is a right of appeal against his decision (which is treated as a plea and enjoys precedence as regards hearing and ruling) and also a right of complaint and application for a rehearing.

1038. As regards appearance, a minor does not require legal counsel when appearing before a juvenile judge; but there is no obligation on the judge to hear the minor before making his decision. At the same time, the Minors Act does not contemplate the possibility of the designation of counsel by the minor to defend him before a juvenile judge; likewise, it contains no specific rules permitting a minor charged with an offence to give a judicial mandate. However, the amendment to the CCP introduced in 1989 authorizes the judge to appoint a lawyer or solicitor to a minor under age 18 who has none.

1039. The rules applicable in the case of a minor charged with a crime or offence are described below (although in principle the rules of the Code of Criminal Procedure are not applicable to a non-imputable minor):

- Recourse to *amparo* is available; the Code of Criminal Procedure establishes rules governing recourse to action of this type, which has constitutional status and is designed to protect individual freedom. Both legal doctrine and case-law recognize that *amparo* is available to non-imputable minors. Confirmation of this is to be found in the ruling of the Supreme Court of Justice dated 19 December 1932 concerning the procedure and decisions in cases of appeal in *amparo*.

- There are some rules relating to evidence, and in particular those defining and regulating the different types of evidence, which are not defined in the Minors Act.[28]

- As regards rules governing appearance in court as a defendant or as a witness: article 53 bis B (as complemented by Act n° 18 857 of 6 December 1989) states that "the intervention of the legal representatives is not required for a person without legal capacity to make a statement as an accused person or as a witness or be tried or participate in any other aspect of criminal proceedings". Article 34 of the regulations to implement the Protection of Minors Act (Decree: n° 2 351; Ministry of Justice, 1928) stipulates the manner in which juveniles under age 18 are to appear in criminal trials involving both adults and minors: it states: "If an ordinary court orders questioning, confrontations or other proceedings in which the minor must take part, it shall so inform the juvenile judge, so that the latter may fix the establishment in which the proceeding must take place, together with the other conditions applicable, taking the precautions necessary to avoid prejudice to the minor..."

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[28] As regards evidence, it must be kept in mind that article 36 of the Minors Act admits as legal evidence

- As regards the instruments laying down the rights of the accused, a new article 67 was added to the Code of Criminal Procedure by Act n° 18 857 of 6 December 1989 as complemented by Act n° 19 047 of 1991. Article 67 complements article 3 bis, which permits a minor under age 18 to conduct his own case in criminal proceedings, stipulating that the rights of the accused may be exercised by his parents or guardians; if they do not do so the judge may appoint defence counsel following the investigation stage. This rule should be considered as an option open to both the parents and the judge; but it does not overrule the principle that the minor may act on his own behalf. One of the most important rights granted to an accused person by the CCP is that of "appointing counsel and submitting evidence designed to disprove the charges laid against him". In addition, article 4 of Act n° 19 047, which amends article 293 of the CCP, stipulates that before a person in detention is placed at the disposal of the court he has the right to a "conference with his lawyer" in the presence of the head of the establishment. However, owing to the location of these regulations and the fact that they derive from a recent reform of criminal trial proceedings, it is not clear whether they are followed in proceedings conducted before a juvenile judge, in particular where the minor concerned is under age 16 and is not an accused person.

- The rules governing separation of persons deprived of liberty are as follows: the Code of Criminal Procedure, together with other legislative instruments, requires that minors be kept separate from adults in prison establishments. The guarantee concerning the place of deprivation of liberty is enshrined in the Constitution. All the international instruments on the penal system or the protection of the rights of the child contain a provision on the subject. The CCP proposes a number of criteria for separation: detainees from convicts, men from women, juveniles from adults, first offenders from reoffenders, level of education, age and nature of the offence. The lack of certainty in these provisions, together with those contained in the Minors Act, has diminished in importance on account of the fact that only exceptionally are minors under age 18 entering adult prisons; this results from the implementation of Act n° 19 343 of October 1994, which speaks of "the removal of persons under age 18 from adult penitentiary institutions"; it prohibits the entry of minors under age 16 in any circumstances, and allows, as an exceptional measure in places where there is no Observation and Diagnostic Centre, the possibility of admitting minors whose discernment is being determined into separate sections where they will enjoy special support from the National Service for Minors. The need to bring in this Act demonstrates that the former system did not prevent children from being placed in prisons and that it was necessary to give a legal guarantee to a right which was protected only by general rules which were not binding on the administration or the courts. Finally, it must be mentioned that the Act under consideration makes no reference to juveniles held to possess discernment and in prisons for adults, sometimes under inadequate forms of segregation; this situation aggravates the lack of protection they enjoy under the Chilean system, notwithstanding the fact that for all legal purposes save that of criminal responsibility they are still minors.

1040. If the juvenile judge decides that an accused minor between 16 and 18 years of age has acted with discernment, that decision will mean that he is deemed imputable and will be tried and sentenced in accordance with the rules applicable to adults. Consequently a juvenile in this situation becomes fully subject to the rules laid down in the Penal Code and the Code of Criminal Procedure in the same way as adults, but with the following exceptions:

- The Penal Code provides for diminished responsibility for a juvenile who has been declared judicially imputable in the following terms: "A minor between ages 16 and 18 who has been declared by the competent court to have acted with discernment and is thus not exempt from responsibility shall be sentenced to a penalty one degree less than the minimum laid down by law for the offence he has committed". As a complement to this substantial reduction in the penalties applicable, the law provides that the penalties applicable to an adult who has used persons under age 18 to commit an offence shall be increased by one degree; the judge evaluates the question according to his conscience.

- The Penal Code provides that "persons under age 21 and women shall serve their sentences in special precincts. In places where no such premises exist, they shall be placed in ordinary prison establishments, but duly separated from adult and male criminals respectively."[29]

1041. The treatment of offending minors who are exempt from criminal liability is governed by the Minors Act, published in February 1967, which follows on from the first Special Act concerning Minors (nº 4 447 of 1928). It establishes a special system of protection for persons under age 18 and, as mentioned earlier, sets the legal consequences of illicit acts committed by non-imputable persons. In addition, the Act gives official sanction to the existence of specialized courts for minors and defines the procedures and protective measures available to those courts. Generally speaking, the Act grants wide powers to these courts; those powers enable them to deal with cases with a substantial degree of discretion. Side by side with these principal powers, importance is attached to technical reports designed to provide information on the conditions in which the child or juvenile lives. In matters relating to criminal responsibility the juvenile judge gives a ruling on discernment and the application of appropriate measures of protection.

1042. A juvenile judge does not only have the power to hear cases involving criminal acts; he may also investigate practically any factor of judicial relevance which affects the life and development of the child concerned. This is due to the fact that the expressly stated purpose of the Act is to protect a minor charged with an offence, not to resolve the penal conflict to which the act he has committed has given rise. This approach explains the absence of any special procedures or protective measures applicable to these offenders.

1043. The contents of the Act can be briefly summed up as follows:

- Implementation of the Act

- Administrative machinery (now superseded by the Organic Act concerning SENAME: Decree-Law nº 2465)

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[29] Reference has already been made to this point. Even so, it must be remembered that there are no special

- Police force dealing with minors
- Judicial bodies for minors: organization and powers
- Homes for minors and institutions providing care
- Penal institutions.

1044. From the foregoing it is clear that the Minors Act governs a substantial proportion of the current arrangements, both substantive and procedural (organic and functional), for the protection of minors. It has been amended many times but has nevertheless maintained its initial approach. The principal amendments introduced were:

- Decree-Law nº 2 465 of 1979, which repealed the whole of Title I (National Council for Minors), replacing that body by the National Service for Minors (SENAME);
- Act nº 19 234 of 1994, amending the articles concerning the ill-treatment of minors;
- Act nº 19 343 of 1994, amending various articles with a view to preventing the placing of minors in penitentiary establishments for adults. The effects of that Act can be observed from the following table:

Table 39
Admissions to Observation and Diagnostic Centres (CODs) and Gendarmerie (annual)

Age group	*1994*		*1995*		*1996*		*1997*	
	F	*M*	*F*	*M*	*F*	*M*	*F*	*M*
0 - 6 years	753	907	224	243	2	23	-	33
7 - 12 years	674	1.914	178	502	7	16	27	31
13 - 21 years	2,260	9,505	809	6,525	358	6,328	374	6,776
22 years and over	272	212	18	66	1	19	6	40
Total	3,959	12,538	1,229	7,336	368	6,386	407	6,880

Source: SENAME.

1045. Of the total number of girls admitted, 50% were from the metropolitan region. The percentage for boys was similar.

1046. With the exception of certain specific rules laid down in article 32, the Minors Act establishes a uniform procedure and measures in respect not only of minors charged with crimes and offences but also of other matters within its field of competence. However, the Act is also unclear on whether such cases are to be deemed contentious or non-contentious.

1047. If a minor has reached puberty the judge may summon him for a personal hearing. However, this measure is not obligatory, since the Act states that it is to be done "if possible". If the minor concerned has not reached puberty he will be heard only if the judge considers it desirable.

1048. Article 32 of the Minors Act stipulates that before any of the measures provided for in it are applied to a minor in respect of an act which, if committed by an adult, would constitute an offence, the judge must establish the circumstances in which the offence took place and the extent to which the minor participated in it. However, even if it is established that the act did not take place, or that the minor played no part in it, the same measures may in any case be applied if the judge concludes that

1049. The measures applicable to a non-imputable minor who has infringed the penal law are listed in article 29 as follows:

- To be given a warning and be returned to his parents, guardians or persons responsible for him;
- To be left at liberty but under supervision;
- To be placed for as long as considered necessary in a special educational establishment designated in the Act;
- To be placed in the care of a person who volunteers for the purpose so that the minor can live in that person's family and who the judge considers fit to direct the minor's education; in addition, the minor will remain within the system of liberty under supervision.

1050. These measures will be applicable for a period fixed by the judge in his decision; the Act establishes no criteria on the subject. The judge may at any time, after consulting the Technical Council of the Minors' Institute, amend or annul the measures decided on if circumstances change.

Juvenile courts: organization and powers

1051. Act nº 16 618 establishes a special system of courts for minors with powers to take cognizance of matters falling within the scope of the Act and to enforce the decisions for which they are responsible. These courts form part of the judiciary and are governed by Act nº 16 618 and subsidiarily by the Courts Organic Code. They are thus placed under the supervision of the Supreme Court of Justice.

1052. At the time of entry into force of the Act it was decided that there should be nine juvenile courts presided over by certified judges, 5 in Santiago, 2 in Valparaiso, 1 in the department of Pedro Aguirre Cerva and 1 in Concepción. At present there are 49 such courts distributed throughout the country. Where there is no juvenile court, its functions will be discharged by the court of second instance; where there are more than one, the oldest will hear these cases.

1053. Juvenile courts are presided over by a single certified judge, who must meet the requirements for a post of certified judge in a departmental court of second instance and in addition possess a knowledge of psychology, which can be obtained by successfully completing a course on minors and the law at any State-approved university or through examination by a board of members of the teaching profession. In addition, each juvenile court will have a court social worker and a secretary, who may act as substitute for the titular judge.

1054. The areas of competence of the juvenile courts are specified in article 26, section 8 of which states: "to hear all cases in which minors charged with crimes, offences or misdemeanours appear in accordance with the provisions of article 28 and to issue the ruling required at the outset on whether the minor between ages 16 and 18 has acted with discernment or not".

1055. The proceedings before a juvenile judge are regulated by the special provisions contained in the relevant Act and only subsidiarily by the Code of Criminal Procedure. In non-contentious cases the proceedings will be oral and there will be no formal judgement; the only requirement is that the judge should issue his rulings in full knowledge of the facts.

1056. If the matter is a contentious one, or if objections to the measures or decisions adopted by the judge are submitted and the nature of the case permits, the summary procedure set down in Title XI, Book III, of the Code of Summary Proceedings will be followed, but with some changes; the hearing and the submission of evidence will take place on a date fixed by the court; there will be no substitution of proceedings; and the final rulings have to meet the requirements applicable to interlocutory decisions instead of those for final rulings. A case becomes contentious only if objections are submitted by the parents or guardians or any other person who has the care of the minor; the possibility that the minor himself may submit objections is not envisaged.

1057. Whatever the procedure followed, the evidence will be evaluated according to the conscience of the judge, who had wide powers to obtain evidence and to take various measures to inform himself of the circumstances of the case. He must if possible hear the minor if the latter has reached puberty; if not, he may hear him only if he thinks this desirable.

1058. The only recourses against a decision of a juvenile judge are those of appeal, complaints and application for a fresh hearing. Appeals are heard in accordance with the rules governing interlocutory proceedings and are allowed solely for purposes of devolution.

4. Physical and psychological recovery and social reintegration of the child (article 39)

149. Please provide information on all measures taken pursuant to article 39 and in the light of article 40, paragraph 1, to promote the physical and psychological recovery and social reintegration of the child involved with the system of the administration of juvenile justice, and to ensure that such recovery and reintegration take place in an environment which fosters the health, self-respect and dignity of the child.

150. Reports should also identify, inter alia, the mechanisms established and the programmes and activities developed for that purpose, as well as the education and vocational training provided, and indicate relevant disaggregated data on the children concerned, including by age, gender, region, rural/urban area, and social and ethnic origin. They should further indicate the progress achieved in the implementation of article 39, difficulties encountered and targets set for the future.

1059. The SENAME looks after young offenders within the rehabilitation systems described under point 36. The protective measures available are: behavioural rehabilitation in an institution; liberty under supervision; and daytime behavioural rehabilitation.

1060. Table 38 shows trends in the numbers of subsidized rehabilitation places from 1994 onwards.

Table 38
Numbers of places in protection schemes, year by year

System	*Places*			
	1994	*1995*	*1996*	*1997*
Daytime behav. rehab.	1,194	1,897	2,365	3,089
Liberty under supervision	2,287	1,817	1,778	1,477
Institutional behav. rehab.	828	833	926	1,000
Total	4,309	4,547	5,069	5,566

Source: SENAME, Ministry of Justice.

1061. As can be seen from table 39, there were in all 5 196 persons in care on 31 December 1997.

Table 39
Numbers of persons in SENAME care by sex and type of protection

Scheme / Sex	*Daytime bebav. rehab.*	*Liberty under supervisión*	*Institutional bebav. rehab.*	*Total*
Girls	740	361	233	1,334
Boys	2,275	1,031	556	3,862
Total	3,015	1,392	789	5,196

Source: SENAME. Figures as of 31 December 1997.

1062. Table 40 shows the principal reasons for the placing in protection of the minors so placed on 31 December 1997.

Table 40
Reasons for placing in SENAME protection schemes

Problem	*Daytime behav. rehab.*	*Liberty under supervision*	*Institutional behav. rehab.*	*Total*
Offences against the person	246	95	49	390
Offences against property	1,336	568	393	2,297
Sexual offences	42	43	19	104
Infringements of law on drugs	486	198	127	811
Minor infringements	9	6	2	17
Severe maladjustment	595	259	142	996
Minor maladjustment	237	161	40	438
Victim	7	7	6	20
Not known	57	55	11	123
Total	3,015	1,392	789	5,196

Source: SENAME.

1063. The age distribution of the individuals within the behavioural rehabilitation schemes on 31 December 1997 is shown in table 41.

Table 41
Numbers of minors by age and system

Scheme / Age group	*Daytime behav. rehab.*	*Liberty under supervision*	*Institutional behav. rehab.*	*Total*
Under 10	14	3	-	17
10 - 13	503	80	113	696
14 - 16	1,693	712	515	2,920
17 - 18	754	497	142	1,393
19 and over	36	87	16	139
Not known	15	13	3	31
Total	3,015	1,392	789	5,196

Source: SENAME.

1064. The length of stay within behavioural rehabilitation schemes of the individuals affected as of 31 December 1997 is shown in table 42.

Table 42
Length of stay within schemes

Scheme	*Daytime behav. rehab.*	*Liberty under supervisión*	*Institutional behav. rehab.*	*Total*
Less than 6 months	1,004	467	309	1,780
7 - 12 months	870	343	227	1,440
Over 1 year	1,141	582	253	1,976
Total	3,015	1,392	789	5,196

Source: SENAME.

1065. The degree of success of the schemes can be seen from the figures for the numbers of individuals released from behavioural rehabilitation schemes between January and December 1997 given in table 43.

Table 43
Quality of releases

Scheme	*Successful release*	*Unsuccessful release*	*Not classifiable*	*Not known*	*Total*
Institutional behav. rehab	323	642	107	36	1,108
Daytime behav. rehab.	698	606	373	58	1,735
Liberty under supervisión	490	346	295	48	1,179
Total	1,511	1,594	775	142	4,022

Source: SENAME.

1066. Since 1990 the SENAME has been conducting various studies of juvenile offenders against the penal law and the programmes which cater or them. From those studies an explanation of juvenile delinquency, known as the "deficient socialization concept", has been developed.

1067. This concept endeavours to explain juvenile delinquency on the basis of deficiencies in the socialization process within the family, starting from the hypothesis that that process is the principal means whereby a biological person becomes a social person; it is in the family that the child internalizes the values, attitudes and standards which will guide his conduct and with which he will acquire value as a person.

1068. However, this process of socialization within the family, in which the parents are the principal players, can be affected by a deficient performance of the parental roles. The result is that children live in a family dynamic in which they receive little recognition and personal value enhancement, weak and inconsistent standards and authority, vague demarcation lines and roles inconsistent with their state of childhood. All this gives rise to a situation of family disintegration.

1069. During this process of family disintegration the child or juvenile gradually accumulates experiences which bind him to peer groups of persons in similar family environments; these include groups of children living or spending much of the day on the streets who have dropped out of school and work in the informal sector.

1070. These experiences are typified in the factors which lead to entry into the SENAME network of programmes; they include running away from home, vagrancy, begging, failure to adapt to family and school standards and consumption of drugs, all of which fall within the general concept of behavioural problems.

1071. Following these first experiences in the street, away from the family home, the children link up with more structured groups which have socially deviant standards and practices. They join in these groups and little by little are recognized as equals and develop attachments and loyalties which they have difficulty in relinquishing.

1072. In groups of the second type the child or juvenile will participate in criminal activities, minor at first (scuffles, thieving, petty larceny) but later more serious (such as robbery with threats, serious bodily harm and possibly homicide).

1073. As regards the scale of offences by juveniles against the penal law, and more specifically the increase in the number of offences and their nature, the following may be observed from the information available in SENAME:

(a) In absolute figures, increases in the numbers of juveniles entering the system on account of offences against the penal law were observed in 1994, 1995 and 1996.

(b) In percentage terms, the figure for 1995 shows an increase of 3.2% over that for 1994 and that for 1996 an increase of 23.7% over that for 1995. A breakdown of the figures by type of offence reveals an increase in the numbers of offences against property and a decrease in the numbers of offences against the person and sexual offences (which are considered the most serious).

1074. The principal developments in the field of rehabilitation are to be found in the policies of SENAME since 1990, particularly with regard to the guidelines giving preference to open-environment programmes, the expansion in the number of programmes available for children and juveniles who have committed offences against the penal law, and in their integration into society.

1075. The situation after 6 years with regard to these guidelines is as follows:

- Widening of the scope of open-environment programmes;
- Reduction of the scope of closed-institution programmes;
- Reduction of the numbers of children and juveniles entering prisons for adults;
- Development of support projects for work within the families and communities to which young offenders belong;
- Psycho-social support and legal defence for young offenders deprived of liberty;
- Formulation and implementation of a plan for infrastructure, directed mainly towards the construction of COD-CERECO closed-institution centres in regions requiring them;
- Conduct of studies designed to:
    - Evaluate closed-institution and open-environment rehabilitation programmes;
    - Standardize open-environment programmes using traditional and community approaches and closed-institution programmes for men and women;
    - Establish profiles of young offenders in each region;

  - Establish profiles of girl offenders;
  - Obtain knowledge of the situations of juveniles in prison;
  - Determine the needs of young offenders against the penal law.

- Development of technical support mechanisms designed to:
  - Monitor and evaluate rehabilitation programmes;
  - Determine the commitment caused by offences and the psycho-social traumas incurred;
  - Create or activate regional networks of rehabilitation programmes;
  - Define the technical requisites for rehabilitation in a closed-institution environment;
  - Define a model for intervention within a closed-institution CERECO.

- Holding of meetings for exchanges of experiences between rehabilitation centres and for the training of teams of professionals.

1076. In the latter context, particular mention should be made of the agreement between the Ministry of Justice and ILANUD in 1996 to organize a number of activities in the field of care for young offenders. The first of these was a seminar on the subject of drug dependency for professionals in the care system and other sectors.

1077. During 1997 two seminars were held in Chile for professionals working with juvenile offenders. The object of those seminars was to provide information on the model of pro-social thinking in the expectation that it would be applied by the persons who had received that training. Both seminars were conducted by professionals of international standing. They were financed by the Latin American Institute for Crime Prevention.

1078. Finally, mention should be made of a programme, known as the Programme for Legal Defence and Psychological Support for Young Offenders, elaborated by SENAME to meet the needs of young offenders. It is designed for young offenders held in the minors' sections of the detention centres of the gendarmerie and covers both juveniles awaiting a decision on discernment and those who have been declared to possess discernment, i.e. those who have been formally charged.

1079. The programme covers two fields: legal and psychosocial. In the legal field, which is handled by lawyers, the objective is to speed up the proceedings which will lead to the speedy release of the juveniles concerned. The psychosocial sector consists of a team comprising social workers, psychologists and workshop instructors; their task is, on the one hand, to develop activities which will minimize the effects on juveniles of a stay in a prison for adults and, on the other, to conduct inquiries when requested to do so by a juvenile judge. The activities undertaken by this team include individual and/or group psychological therapy, guidance for families, school catch-up classes and the development of various activities (manual workshops, sports, recreation) designed to occupy the free time of the juveniles concerned.

1080. Programmes of this type are currently operational in 11 of the country's 13 regions, namely regions I, II, III, IV, V, VI, VII, VIII, IX, X and the metropolitan region. The scheme covers

345 places, the majority of them in regions V and VIII. The metropolitan region only covers juveniles formally charged, since young offenders declared to be without discernment are taken into the Tiempo Joven community.

1081. The programme may be briefly evaluated as follows:

(a) The general objectives of the programme are being achieved; the procedures for an earlier release of juveniles have been speeded up. In addition, knowledge of the procedures used before the juvenile and criminal courts has been accumulated and the validity of those procedures established.

(b) In addition, monitoring and vocational guidance have in practice helped to minimize the effects of prison culture and to improve the conditions under which juveniles are held in those sections. Another positive effect is that the families of juveniles do not lose contact with them and are given more flexible support and guidance by the professionals in the programme (lawyer and social worker).

(c) The principal difficulties observed arise from the absence of suitable premises within the centres to permit the desirable level of segregation and the unavailability of sufficient space for the conduct of activities permitting full use of free time.

(d) Moreover, the human and material resources available to the programmes are insufficient to permit speedy and effective treatment of problems of a psychiatric nature (aggressivity, loss of emotional control, etc.), neurological problems and problems related to the syndrome arising from the withdrawal of drugs. All these problems occur frequently among young offenders deeply involved in crime (i.e., juveniles who have committed serious offences and are repeat offenders) and are factors making for crises in situations of deprivation of liberty.

1082. Finally, it should be mentioned that since 1995 projects have been initiated for the construction and equipment of Behavioural Rehabilitation, Observation and Diagnosis Centres. By the end of 1997 four such centres had been completed (in regions II, IV and VIII and the metropolitan region and land had been purchased and design work begun for eight more (in regions III, V, VI, VII, VIII, IX, X and the metropolitan region). Investment in this area totalled Ch$ 4 million.

1083. For the period 1998-2002 investments totalling M$ 15 million have been programmed for the sector. During this period 14 new centres are to be created and design work begun on a further 7. In addition, under a special project existing centres have been adapted to provide sections offering basic features of security and segregation for young offenders. The cost of this project was Ch$ 373 000 million, spread over the years 1996, 1997 and 1998.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation of children, including child labour (article 32)

151. Please provide information on the measures taken, including of a legislative, administrative, social and educational nature, to recognize and ensure the right of the child to be protected from:

- **Economic exploitation;**

- **Performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.**

1084. As regards protection against economic exploitation and the performance of work which may be hazardous or prejudicial to a minor's health, development or education, the provisions of the Labour Code prohibit the employment of persons under age 18 in underground work, tasks requiring excessive physical effort and work which may prove dangerous to the minor's health, safety or morals, and also work in cabarets and other similar establishments in which live shows are presented and in places selling alcoholic beverages for consumption on the premises. Night work is also prohibited under the conditions mentioned in the previous paragraph (article 14 and paragraph 1 of article 18).

1085. Without prejudice to the rules already mentioned, which refer specifically to work by minors, article 1187 of the Labour Code lays down the general rule (thus also applicable to persons under age 18) that a worker may not be required or allowed to be employed on tasks which are deemed to exceed his strength or which may endanger his health or safety.

1086. The Labour Directorate and/or the health services are competent to determine whether a task falls within the above-mentioned prohibitions applicable to minors or to workers in general.

152. In this regard, reports should in particular indicate:

- **Whether legislation has included a prohibition, as well as a definition, of hazardous and harmful work, and/or of the activities considered to be hazardous, harmful to the child's health or development or to interfere with the child's education;**

- **Any preventive and remedial action undertaken, including information and awareness campaigns, as well as education, in particular compulsory education, and vocational training programmes, to address the situation of child labour both in the formal and informal sector, including as domestic servants, in agriculture or within private family activities;**

- **The measures adopted to ensure respect for the general principles of the Convention, particularly non-discrimination, the best interests of the child, the right to life, and survival and development to the maximum extent possible.**

1087. Please refer to paragraphs 1084-1086 above.

1088. As regards government action undertaken during the period covered by this report, and to give full effect to the provisions of the Convention referred to, mention may be made of the following:

(a) The Government of Chile has transmitted to Congress for further action a draft decision to ratify ILO Convention nº 138 concerning the minimum age of admission to employment; that draft is currently in second discussion in the External Relations Committee of the Senate, as required by the Constitution.

(b) The Government of Chile has transmitted to Congress for further action a draft decision to ratify ILO Convention nº 138 concerning the minimum age of admission to employment. The draft was approved by Congress on 3 November last, and it only remains for it to be published in the Diario Oficial in order to enter into force.

153. Please also indicate the appropriate measures adopted pursuant to article 32, paragraph 2, and having regard to the relevant provisions of other international instruments, including measures at the legislative and administrative levels, to provide in particular for:

- **A minimum age or minimum ages for admission to employment;**
- **Appropriate regulation of the hours and conditions of employment;**
- **Appropriate penalties or other sanctions to ensure the effective enforcement of this article, and any mechanism of inspection and system of complaint procedures available to the child, either directly or through a representative.**

1089. Chilean legislation governing the minimum age for admission to employment lays down the following rules (art. 13):

(a) A person aged 18 or over has full capacity to accept employment and may freely enter into contracts of service.

(b) Persons over age 15 but under age 18 may only work with the express permission of his father or mother, grandparents, guardians or the labour inspector, in the order given, each acting in the absence of those preceding them.

(c) When the authorization is given by a labour inspector, the latter must bring the circumstances to the attention of a juvenile judge, who has the power to quash the authorization if he considers that it will have undesirable consequences for the minor.

(d) Minors between ages 14 and 15 may only work if they comply with the system of authorization referred to in the previous section and then only subject to the following additional requirements:

- that they have completed their minimum compulsory schooling; and
- that the work is light, is not prejudicial to their health or development and does not interfere with their attendance at school or participation in educational programmes.

(e) Minors under age 14 are prohibited from working.

(f) As regards hours of work, national legislation provides that minors under age 18 may not work for more than eight hours per day and are prohibited from working in industrial and mining establishments between 10 p.m. and 7 a.m. except in family establishments where the work is performed under the authority of a member of the family (art. 18, para. 1).

(g) In the event of offences against the above-mentioned rules protecting the employment of minors, the Labour Code lays down sanctions. These consist of fines inflicted by the labour inspectorate; article 477 of the Code sets the amount of these fines at 1 to 10 monthly tax units, with an increment of 0.15 unit for each worker involved in the offence where more than 10 workers are involved in the enterprise concerned.

(h) Furthermore, if a labour inspector establishes that a minor is being employed other than in strict compliance with the regulations on the protection of minors already mentioned, he must order the cancellation of the employment relationship and apply the appropriate sanctions to the employer concerned in accordance with article 17 of the Code. Without prejudice to the foregoing, and also in accordance with the Code, the employer is required to pay to the minor whose contract has been cancelled all monies due to him in respect of work done.

154. In this regard, reports should also provide information on the international conventions and other relevant instruments to which the State may be a party, including in the framework of the International Labour Organization, as well as on:

- **Any national policy and multidisciplinary strategy developed to prevent and combat situations of children's economic exploitation and labour;**
- **Any coordinating and monitoring mechanism established for that purpose;**
- **The relevant indicators identified and used;**
- **Relevant programmes of technical cooperation and international assistance developed;**
- **The progress achieved in the implementation of this article, benchmarks set up as well as difficulties encountered;**
- **Relevant disaggregated data on the children concerned, including by age, gender, region, rural/urban area, and social and ethnic origin, as well as on infringements observed by inspectors and sanctions applied.**

1090. In the first place, with regard to earlier standards, both the International Covenant on Economic, Social and Cultural Rights, which provides that "children and young persons should be protected from economic and social exploitation" and that "their employment in work harmful to their morals or health or likely to hamper their normal development should be punishable by law", and the Convention on the Rights of the Child, which recognizes the right of the child to be protected from economic exploitation and from performing "any work that is likely to be hazardous ... or to be harmful to the child's health or physical, mental spiritual, moral or social development", have constitutional status in Chile under article 5, paragraph 2, of the national Constitution.

1091. As regards international labour standards, Chile has ratified 6 ILO Conventions concerning child labour: Nos. 5 and 6 of 1919 concerning respectively the minimum age for employment in industry and the night work of young persons; n° 7 of 1920 concerning the minimum age for employment at sea; and Nos. 10, 15 and 16, setting standards for the minimum age for employment in agriculture, as trimmers and stokers and for the medical examination of young persons employed at sea respectively. The provisions of these Conventions were incorporated into labour legislation promulgated between 1924 and 1931.

1092. In Chilean law the protection of the physical and psychological integrity of the person from all illegal or arbitrary assault, including that arising from the performance of paid work, derives by implication from article 19 (1) and (6) of the Constitution, which state:

> "The Constitution guarantees to everyone:
>
> (1) The right to life and the physical and psychological integrity of the person;
>
> (16) Freedom to work and protection at work."

1093. The special regime providing protection for minors in the work environment is defined in the Labour Code, the text currently in force of which dates from 1994. Specifically, the relevant provisions are contained in the second chapter of Book I, entitled "Concerning the capacity to enter into contracts and other regulations relating to the employment of minors".

1094. The regime for the protection of minors at work is fully compatible with ILO Convention n° 138 and the other ILO Conventions which Chile has ratified. Convention n° 138 has not yet been ratified.

1095. As regards data on the children concerned, on the basis of the estimates made by the CASEN 96 survey, it can be said that some 47,000 children between ages 6 and 14, or 1.9% of the population in that age group, worked during the three months preceding the inquiry. Of these, 16,000 children stated that they had been working regularly; the other 31,000 stated that they had worked occasionally.

1096. If these figures are disaggregated by age, it will be observed that some 15,000 of the children concerned (5,000 working regularly and 10,000 occasionally) were between 6 and 11 years of age and approximately 32,000 (11,000 working regularly and 21,000 occasionally) were between ages 12 and 14. These figures correspond to 0.9% of boys and girls between ages 6 and 11 and 4.2% of those between ages 11 and 14. These figures correspond to 0.9% of all boys and girls between ages 6 and 11 and 4.2% of those between ages 12 and 14.

1097. In the 12-14 age group child labour is encountered more frequently among boys than among girls; 73% of the children working regularly and 79% of those working occasionally are boys.

1098. A comparison by sex reveals that 2% of boys work regularly and 4.3% occasionally. The corresponding figures for girls are 0.8% and 1.2% respectively.

1099. In addition, child labour is more frequent among children living in rural areas than among those living in urban areas. Table 43 shows that 1.9% of children between ages 12 and 14 living in rural areas work regularly and 5.4% occasionally, whereas the corresponding figures for children in urban areas are 1.3% and 2.2% respectively.

Table 44
Percentage of population between ages 12 and 14 in work by area of residence, 1996

Child labour	*Urban areas*	*Rural areas*
Working regularly	1.3	1.9
Working occasionally	2.2	5.4
Total working	3.5	7.3

Source: MIDEPLAN, CASEN 96 survey.

1100. However, it should be pointed out that, since there are more children living in urban areas than there are in rural areas, and although child labour is more frequent in the latter, 76% of children working regularly and 67% of those working occasionally are urban children.

1101. The CASEN survey also revealed that child labour, both regular and occasional, is encountered most frequently among children living in poverty.

1102. Among children aged between 12 and 14 years, 31.5% of those working regularly and 8.1% of those working occasionally stated that they were not attending school. These percentages contrast with 2.4% among non-working children.

1103. From the foregoing it may be concluded that there is a clear relationship between non-attendance at school and regular child labour.

1104. In the 15-17 age group there appear to be approximately 78,000 persons in the labour force (9.7% of the membership of the group, according to the CASEN survey).

1105. Of the total number of juveniles in the labour force, 82.7% are in employment and 17.3% are unemployed.

1106. As regards the incomes of those in employment, the average monthly wage received by the juveniles concerned is approximately 54 000 pesos - less than the statutory minimum wage fixed for persons under age 18 (61 445 pesos).

1107. Juveniles are employed primarily in agriculture, hunting, forestry and fishing (37%) and in commerce and restaurants (24%).

1108. Of the juveniles in the 15-17 age group in the labour force, whether in employment or unemployed, 77.3% are not attending school, whereas the proportion of non-working children not studying is only 9.7%.

1109. The higher school drop-out rate among these juveniles is reflected in a lower level of completed schooling. Thus the average duration of completed schooling among juveniles in the labour force is 7.7 years, that among juveniles who are not economically active is 9.5 years.

1110. In June 1996 Chile signed a memorandum of understanding with the ILO International Programme for the Elimination of Child Labour (IPEC) in which the Government of Chile undertook to take the following measures:

(a) To analyse the child labour situation in the country;

(b) To elaborate and establish a national plan to combat child labour:

(c) To frame and develop policies directed towards the prevention and elimination of child labour;

(d) To develop national plans incorporating measures of local or sectoral scope or directed at specific occupations;

(e) To provide special care for boys and girls working under unacceptable conditions or conditions which violate fundamental rights and in hazardous activities and conditions, with particular reference to boys and girls under age 12.

1111. In 1996, with a view to coordinating, evaluating and monitoring the activities to which it had committed itself, the government, on the proposal of the Ministry of Labour and Social Insurance, established the National Advisory Committee for the Elimination of Child Labour and the Protection of Young Workers, composed of representatives of public and private institutions, employers' and workers' organizations, non-governmental organizations, various churches and representatives of international organizations such as the ILO and UNICEF.

1112. One of the first tasks of the Advisory Committee is that of establishing a picture of the reality of child labour. To that end the findings of the CASEN surveys into the social and economic situation organized in 1994 and 1996 have been published; those surveys contained a specific question on child labour. It was thus possible to obtain more precise data on the position. In addition, a study of the features of child labour will be put out to tender in October of this year with the support of UNICEF; the use is envisaged of qualitative and quantitative methodologies with child workers and their parents with a view to obtaining reliable data from which the social, family and economic characteristics of working children can be determined. This will be a key element in the design and implementation of policies for the elimination of child labour.

1113. The other tasks of the National Advisory Committee consist of the definition of the nature of the measures to be taken and the fields of activity to be explored, the coordination of concrete projects to combat child labour, the evaluation of the programme and of its activities and the incorporation of an institutional dimension (and in particular the community dimension) into policies on child labour - in brief, to elaborate a plan for the elimination of child labour.

1114. Together with the National Advisory Committee, regional committees for the elimination of child labour were established in each of the 13 regions of the country under the chairmanship of the competent Regional Secretary of the Ministry of Labour and Social Insurance.

1115. In order to prepare a logical matrix for the plan, a number of meetings have been held with the different public services and ministerial authorities represented on the national and regional committees. It is intended to include members of parliament and of the judiciary, and especially institutions of civil society. The purpose of these meetings was to reach agreement on the causes and consequences of the different problems concerning child labour and to attack those causes.

1116. In addition, by the end of 1998 the results of an inquiry sponsored by UNICEF will be known. This will enable a more precise picture of the reality of child labour to be obtained. That picture will be analysed in the different committees and will provide a basis for the finalizing of the different measures to be taken. Admittedly, there is already a consensus on the importance of education; but the whole will rest on a basic assumption of continuing economic growth and the combined effect of the social plans, which together constitute essential elements for an approach to this subject.

1117. In 1998, in the context of the implementation of the plan of action, the launching of three specific projects on the elimination of child labour is envisaged. These projects will be financed by the International Labour Organization and will take place in regions VI and IX and the metropolitan region; they will target previously defined groups of working children.

2. Drug abuse (article 33)

155. Please indicate all appropriate measures adopted, including legislative, administrative, social and educational measures, to:

- **Protect children from the illicit use of narcotic drugs and psychotropic substances, as defined in relevant international treaties;**

- **Prevent the use of children in the illicit production and trafficking of such substances.**

156. Reports should also indicate:

- **The relevant international conventions, including at the regional and bilateral levels, to which the State is a party;**
- **Any arrangements made and structures developed to raise awareness in the general population and amongst children, including through the school system and whenever appropriate by the consideration of this topic by the school curricula;**
- **Any measures undertaken to assist children and their families, including through counselling, advice and helplines, where appropriate of a confidential nature, and policies and strategies designed to ensure the physical and psychological recovery and social reintegration of children concerned;**
- **Any measures designed to monitor the incidence of drug abuse on children, as well as their involvement in the illicit production and trafficking of narcotic and psychotropic substances, progress achieved, difficulties encountered and targets set for the future;**
- **Any relevant disaggregated data, including by age, gender, region, rural/urban area, and social and ethnic origin.**

1118. In September 1990 the Government of Chile inaugurated the National Council for Narcotic Drug Control (CONACE), composed of all the Ministries and State Secretariats involved in the prevention, treatment, rehabilitation and control of narcotic drugs and psychotropic substances.

1119. CONACE is the body coordinating the policies, plans and programmes being implemented by the government, through the different agencies of the State, designed to develop systematic, comprehensive, coherent, concerted and sustained action to achieve the ends mentioned and to contribute to the body of social policies promoting improvements in the quality of life of individuals, families and the community. It is also the body acting as advisor to the President of the Republic and official government spokesman in dealings with international organizations concerned with the drug problem.

1120. In order to carry out its task of coordinating action on a country-wide basis as effectively as possible and in a decentralized manner, CONACE has established regional councils for drug control (CORECEs) in all the 13 administrative regions of the country.

1121. In 1993 the National Policy and Plan for Drugs Prevention and Control was elaborated. Within that framework CONACE has contributed to the establishment of a new and modern legal framework for the country. A Coordinating Committee on Prevention, and another on control, have been established; a national information system on drugs has been established and documentation and information centres have been created, made operational and interconnected. CONACE has also helped to create the mechanisms for community participation by means of a fund for the support of projects deriving from local initiatives and to validate preventive strategies at communal level.

1122. A number of other measures have been taken in such fields as studies of drug consumption, prevention campaigns and epidemiological surveillance.

1123. In 1995 Act n° 19 366, laying down penalties for the consumption of and trafficking in narcotic drugs and psychotropic substances, was promulgated. Among other things, the Act also defines and lays down penalties for the offence of money-laundering. It also lays down rules concerning the diversion of raw materials and essential chemical substances to drug manufacture, strengthens the existing provisions on the control and eradication of the illicit cultivation of plants containing drugs and establishes the statutory instruments necessary for the use of new policing techniques. Finally, for the first time in Chilean legislation, the public and private consumption of drugs (in the latter case, on an agreed basis) is declared punishable.

1124. It should also be mentioned that other public institutions, such as the Ministry of Education, the Ministry of health, the National Service for Minors and the National Youth Institute have devised a corpus of programmes for the prevention of drug consumption and the treatment and rehabilitation of consumers.

1125. In the educational field, mention should be made of the Programme for the Prevention of Drug Consumption in the School System. This programme was launched by the Ministry of Education in 1992 as a response to the rises in the indices for school dropouts, poor performance and repeat years among pupils. This situation was observed in a number of regions of the country, and especially in the north, which was designated as a high-vulnerability region (relating to the traffic and consumption of drugs), as it borders on countries which produce narcotic drugs.

1126. The aim of the programme is "to contribute to the improvement of the quality of life among children and young persons within the school community by developing global strategies for the prevention of drug consumption".

1127. The basic objectives pursued are the promotion and development among the players in the school community of skills and capacities of a nature to promote the prevention of drug consumption by stimulating the development of preventive training activities, with the participation of all the members of the school community, designed to support personal development, promote awareness and strengthen capacities in the field of prevention of consumption.

1128. The groups targeted were pupils, teachers and parents in subsidized primary and middle-level municipal and private educational communities within the country. So far 1 433 teachers have received training under the scheme and some 3 000 seminars have been organized for parents; the principal aim of the latter is to develop the awareness and motivation of parents on the subject of prevention of drug consumption, particular emphasis being laid on protective and risk factors.

1129. The principal beneficiaries of the programme are children and young persons at school. With a view to encouraging active participation by students and promoting many and varied preventive measures, support is being given to pupils centres through School Prevention Projects (PEPs). These projects are financed by a participatory fund to which any subsidized establishment in the country may apply. The aim of this scheme is to distribute funds to schools to enable them to develop prevention activities in accordance with their needs. The scheme was first launched in 1994; between that year and 1997 it financed 1 845 projects throughout the country at a total cost of Ch$ 286 000 million.

1130. Together with this scheme, a number of large-scale activities and cultural events for young persons were organized. Particular mention should be made of a poster competition for schoolchildren, a cultural event entitled "Spring without Drugs" and meetings with youth leaders.

1131. During the period 1994-97 the Ministry of Education invested Ch$ 1 069 886 million in the Programme for the Prevention of Drug Consumption in the School System (see table 45).

Table 45
Year-by-year investment in the Programme for the Prevention of Drug Consumption

Year	*Investment (in M Ch$)*
1994	138,000
1995	237,000
1996	300,364
1997	675,758

Source: Programme for the Prevention of Drug Consumption.

1132. The Ministry of Health is not conducting any specific prevention, treatment and rehabilitation programmes related to drug consumption at central level. The programmes, projects and activities being conducted in this area are based on initiatives taken in individual health services.

1133. The National Service for Minors has developed a training programme for classroom teachers covering prevention, treatment and rehabilitation in relation to drugs and alcohol; emphasis is laid on detection of consumption and initial intervention. Also, work has begun on a policy and model treatment for excessive consumption of drugs by offenders against the law.

1134. As regards data on the subject, mention may be made of the findings of a nation-wide study of drug consumption in Chile carried out in 1994. The study established that 13.4% of the Chilean population living in towns with 50 000 or more inhabitants had taken drugs at some time during their lives and 4.5% during the previous 12 months (the drugs in question were the three illegal drugs consumed in the country - marijuana, cocaine base paste and hydrochlorate). The study also revealed that volatile solvents had been sniffed by 0.7% of the population during their lifetimes, 0.18% during the last 12 months and 0.006% during the past month; and that during the previous month 40% of the population had consumed alcohol and 40.5% cigarettes.

1135. Drug consumption in Chile is highest among males between ages 18 and 34 (43% of them had taken marijuana or cocaine base paste or hydrochlorate at some time in their lives) and among persons in the higher socio-economic categories. Tobacco consumption is highest in the 12-18 age group at all socio-economic levels. Use of volatile solvents during the previous month is highest among girls under age 12 and boys between ages 12 and 18.

1136. The age at which base paste is consumed for the first time is mostly somewhere between ages 19 and 25 for both men and women; for consumption of cocaine, it is mainly between ages 19 and 25 for men and between 12 and 18 for women; and consumption of marijuana begins mostly between ages 12 and 18. Consumption of alcohol and tobacco begins mainly between ages 12 and 18 in all socio-economic categories and that of tranquillisers between ages 26 and 64.

4. Sale, trafficking and abduction (article 35)

160. Please provide information on all measures adopted, including of a legislative, administrative, educational and budgetary nature, at the national, bilateral and multilateral levels, to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

161. In this regard, reports should indicate inter alia:

- **The legislation adopted to ensure effective protection of children against abduction, sale and trafficking, including through the consideration of these acts as criminal offences;**

- **Awareness and information campaigns to prevent their occurrence, including campaigns undertaken in cooperation with the media;**

- **The allocation of appropriate resources for the development and implementation of relevant policies and programmes;**

- **Any national strategy developed to prevent and suppress such acts;**

- **Any coordinating and monitoring mechanism established for that purpose;**

- **The relevant indicators identified and used;**

- **Whether special units have been created among law enforcement officials to deal with these acts;**

- **Relevant training activities provided to the competent authorities;**

- **Structures and programmes developed to provide support services to the children concerned and to promote their physical and psychological recovery and social reintegration, in the light of article 39;**

- **The measures adopted to ensure that in the implementation of article 35 due consideration is taken of other provisions of the Convention, including in the areas of civil rights, particularly in relation to the preservation of the identity of the child, adoption and prevention of any form of exploitation of children, including child labour and sexual exploitation;**

- **The measures adopted to ensure respect for the general principles of the Convention, including non-discrimination, the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible.**

162. Reports should also indicate the relevant bilateral and multilateral agreements concluded by the State party, or to which it may have acceded, to prevent the sale and abduction of and trafficking in children, including in the areas of international cooperation between judicial authorities and law enforcement officials, inter alia on any existing system of collection and exchange of information on perpetrators of such acts as well as on the child victims. Relevant disaggregated information should also be provided on the children concerned by the implementation of article 35, including by age, gender, region, rural/urban area, and social and ethnic origin, as well as on the progress achieved in the implementation of this article, the difficulties encountered and the targets set for the future.

1137. On this subject please refer to chapters 1 - 4 of this report.

5. Other forms of exploitation (article 36)

163. Please provide information on all measures adopted, including of a legislative, administrative, educational, budgetary and social nature, to protect the child against all forms of exploitation prejudicial to any aspects of his or her welfare.

164. Reports should also indicate, inter alia:

- **The prevalence of any form of exploitation prejudicial to the child's welfare;**
- **Awareness and information campaigns launched, including for children, families and the public at large, as well as the involvement of the media;**
- **Training activities developed for professional groups working with and for children;**
- **Any national strategy developed to ensure protection to the child and the targets set for the future;**
- **Any mechanism established to monitor the situation of the child, the progress achieved in the implementation of this article and any difficulties encountered;**
- **The relevant indicators used;**
- **Measures adopted to ensure the physical and psychological recovery, as well as the social reintegration, of the child victim of exploitation prejudicial to any aspects of his or her welfare;**
- **Relevant measures adopted to ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child, the right to life and survival and development to the maximum extent possible;**
- **The measures adopted to ensure that the implementation of this article takes into due consideration other relevant provisions of the Convention;**
- **Relevant disaggregated data on the children concerned by the implementation of this article, including by age, gender, region, rural/urban area, and national, social and ethnic origin.**

1138. These points have been covered in the different chapters of this report.

D. Children belonging to a minority or an indigenous group
(Article 30)

165. Please provide information on the measures adopted, including at the legislative, administrative, educational, budgetary and social levels, to ensure that a child belonging to an ethnic, religious or linguistic minority or who is indigenous is not denied the right, in community with other members of his or her group:

- **To enjoy his or her culture;**
- **To profess and practise his or her own religion;**

- **To use his or her own language.**

1139. See below, paragraphs 1140-1153.

166. In this regard, reports should also indicate inter alia:

- **The ethnic, religious or linguistic minorities or indigenous groups existing within the State party's jurisdiction;**
- **The measures adopted to ensure the preservation of the identity of the minority or indigenous group to which the child belongs;**
- **The measures adopted to recognize and ensure the enjoyment of the rights set forth in the Convention by children belonging to a minority or who are indigenous;**
- **The measures adopted to prevent any form of discrimination and combat prejudice against those children, as well as those designed to ensure that they benefit from equal opportunities, including in relation to health care and education;**
- **The measures adopted to ensure respect for the general principles of the Convention, namely the best interests of the child, respect for the views of the child, the right to life, and survival and development to the maximum extent possible, as well as non-discrimination;**
- **The measures adopted to ensure that in the implementation of the rights recognized in article 30 due consideration is taken of other provisions of the Convention, including in the areas of civil rights, particularly in relation to the preservation of the child's identity, family environment and alternative care (for example art. 20, para. 3 and art. 21), education and the administration of juvenile justice;**
- **Relevant disaggregated data on the children concerned, including by age, gender, language, religion, and social and ethnic origin;**
- **The progress achieved and the difficulties encountered in the implementation of this article, as well as any targets set for the future.**

1140. Prior to 1990 the State does not appear to have taken any measures of a social character targeting indigenous ethnic minorities. From 1990 onwards, for the first time in the history of the country, this sector of the population, made up of the Mapuche, Aymará, Rapanui, Altacameña, Quechua, Colla, Kawashkar and Yagán communities, became a priority element in government policy.

1141. Although there are clearly great socio-cultural differences between these indigenous groups - which are aggravated by the considerable distances between them - certain elements common to all of them were identified at the beginning of the 1990s. These elements, which inspired a determination to give priority to the integration of these groups within the framework of social policy, were:

(a) a deterioration in their living conditions and increasing marginalization;

(b) disputes over land and water within indigenous communities arising from divisions of land, usurpation, fraudulent sales, leases, etc.;

(c) High levels of emigration from indigenous communities to urban areas and low levels of population increase;

(d) Low levels of opportunity and access to the school system, poor quality of education and its irrelevance, since it did not take into account the cultural and linguistic realities of the indigenous peoples;

(e) Lack of access to technical and vocational training systems and to higher education;

(f) Problems relating to access to the courts and the administration of justice.

1142. In the light of that situation, in 1990 the government of that time established the National Indigenous Peoples' Commission with the specific aim of framing indigenous legislation and establishing an indigenous development corporation. The Commission advised the government on the framing of policies towards those groups, particularly in relation to their full economic and social development with regard to the preservation, strengthening and dissemination of their cultural values and modes of expression and the due participation and emergence of their members within the national community.

1143. On 5 October 1993 the Indigenous Peoples Act (n° 19 253), laying down standards for the protection, promotion and development of the indigenous peoples and establishing the National Indigenous Development Corporation.

1144. The principal features of this new instrument are as follows:

(a) It sets as its objective the elimination of all types of discrimination existing in the country in order to enable individuals forming part of an indigenous culture to express that culture in full freedom;

(b) It establishes formal legal recognition of the indigenous communities in Chile;

(c) It grants legal personality to indigenous communities as instruments for development and defence;

(d) It creates a Land and Water Fund through which the State will subsidize indigenous individuals and communities for purposes of acquisition of land;

(e) It creates the Indigenous Ethnic Development Fund to promote the implementation of agricultural and stock-rearing plans and programmes;

(f) In the educational and cultural fields, it establishes an intercultural bilingual scheme to preserve culture, language and identity and by so doing to promote their progress and development;

(g) It establishes an institution - the National Indigenous Development Corporation (CONADI) - to fix guidelines for policies relating to indigenous peoples; the latter will be represented on it.

1145. According to the results of the CASEN 96 survey, the numbers of persons claiming to belong to one of the eight indigenous ethnic groups covered by the instrument was 635 376, or approximately 4.5% of the country's population.

Table 46
Indigenous population in Chile, by ethnic group

Group	*Number*	*Percentage*
Non-indigenous	13,576,673	95.40
Mapuche	517,125	3.63
Aymará	90,527	0.64
Atacameño	9,988	0.07
Rapanui	7,720	0.05
Colla	5,467	0.04
Quechua	3,436	0.02
Yagán	975	0.01
Kawashkar	138	0.00
Not known	20,195	0.14
Total	14,232,244	100.00

Source: MIDEPLAN, Social Information Dept., CASEN 96 survey.

1146. Some regions, such as regions I, IX and X, have high concentrations of indigenous peoples; in regions XI and XII the indigenous population is of significant size.

1147. As regards the distribution of the indigenous population between rural and urban areas, the CASEN 96 survey revealed a substantial difference between them and the non-indigenous population. It appears that 51.5% of indigenous Chilean men live in rural areas - a very considerable difference from the 15.5% of non-indigenous men. The same orders of magnitude are found with women (49.6% and 13.6% respectively).

1148. As regards incomes, according to the findings of the CASEN 96 survey, 25% of the indigenous population were living in poverty and 10.6% in extreme poverty; in other words, 35.6% of the indigenous population were living in poverty at the time of the inquiry. A comparison of these figures with those for the total population of the country - 17.5% living in poverty and 5.7% in extreme poverty - highlights the difference; the gap is one of over 12 percentage points. These figures show that the incidence of poverty and extreme poverty in Chile is higher among the country's indigenous peoples.

1149. If it is remembered that, generally speaking, poverty mostly affects children and young persons, the above data point to the conclusion that some 50% of indigenous children are living in poverty or extreme poverty. (No detailed information is available on the indigenous population under age 18.)

1150. There are three areas of particular importance for the living conditions of indigenous peoples: justice; education and culture; and community development.

1151. Although the general improvement in the living conditions of Chileans belonging to indigenous ethnic groups will also lead to improvements in the situation of indigenous boys and girls, the State is gradually introducing in increasing numbers projects, programmes and activities focussed on them. The most noteworthy are those relating to education and support provided through a special system of primary, secondary and higher education scholarships for indigenous pupils and students.

Table 47
Primary education scholarships

Region	*1992*	*1993*	*1994*	*1995*	*1996*	*1997*
I	322	360	378	388	388	420
II	54	80	96	101	101	133
III	-	-	-	5	5	21
IV	-	-	-	3	3	8
V	-	-	-	10	10	20
VI	-	-	-	4	4	14
VII	-	-	-	3	3	6
VIII	250	300	323	336	336	352
IX	1,600	1,700	1,720	1,728	1,728	1,744
X	274	267	287	299	299	315
XI	-	-	-	10	10	26
XII	-	8	10	15	15	25
Metropolitan region	-	72	86	98	98	130
Country total	2,500	2,787	2,900	3,000	3,000	3,214

Source: Ministry of Education.

Table 48
Secondary education scholarships

Region	*1992*	*1993*	*1994*	*1995*	*1996*	*1997*
I	100	100	107	157	162	172
II	20	30	37	54	59	69
III	-	-	-	5	7	12
IV	-	-	-	3	5	10
V	-	-	-	5	10	18
VI	-	-	-	4	6	10
VII	-	-	-	3	5	8
VIII	100	120	127	182	189	199
IX	660	695	702	738	740	755
X	100	125	134	184	189	199
XI	-	-	-	14	19	24
XII	-	6	8	16	19	29
Metropolitan region	20	38	45	85	90	102
Country total	1,000	1,114	1,160	1,450	1,500	1,607

Source: Ministry of Education.

Table 49
Higher education scholarships*

Region	*1992*	*1993*	*1994*	*1995*	*1996*	*1997*
I	74	100	106	106	131	145
II	13	25	31	31	46	53
III	-	-	-	0	3	6
IV	-	-	-	0	3	6
V	37	34	34	34	54	59
VI	-	-	-	0	3	6
VII	-	-	-	0	3	6
VIII	43	63	69	69	91	99

Region	***1992***	***1993***	***1994***	***1995***	***1996***	***1997***
IX	438	530	536	536	550	558
X	51	60	69	69	89	97
XI	-	-	-	0	5	8
XII	-	3	3	3	10	16
Metropolitan region	94	85	92	92	112	120
Country total	750	900	940	940	1,100	1,179

* Includes universities, higher education centres and technical training centres.

Table 50
Total scholarships

Región	***1992***	***1993***	***1994***	***1995***	***1996***	***1997***
I	496	560	591	651	681	737
II	87	135	164	186	206	255
III	-	-	-	10	15	39
IV	-	-	-	6	11	24
V	-	-	-	49	74	97
VI	-	-	-	8	13	30
VII	-	-	-	6	11	20
VIII	393	483	519	587	616	650
IX	2,698	2,925	2,958	3,002	3,018	3,057
X	425	452	490	552	577	611
XI	-	-	-	24	34	58
XII	-	17	21	34	44	70
Metropolitan region	-	195	223	275	300	352
Country total	4,250	4,801	5,000	5,390	5,600	6,000

Sources: years 1992, 1993, 1994 and 1995: Ministry of Education compendium of statistical information; years 1996 and 1997: Ministry of Education.

1152. As stipulated in the Indigenous Peoples Act, CONADI has elaborated an education plan made up of two components: first, it is establishing the basis for intercultural bilingual education; and second, it is implementing a school support programme to induce indigenous pupils to remain in the educational system.

1153. Other support activities (both direct and indirect) for children in indigenous communities are conducted by the National Service for Women (by means of studies on the entry of women into the labour market) and the Kindergartens Board, which is introducing kindergartens of a non-conventional type for boys and girls belonging to indigenous ethnic minorities.

Annex

PROJECTS CONCERNING CHILDREN AND YOUNG PERSONS PERIOD 1993-1997

Donor country or organization	*Year of project*	*Name of project*	*Executing agency*	*Institutional sector*	*Contribution of donor (dollars)*	*Present situation*	*Type of cooperation*
Sweden	1993	P-900 seminar	CIDE	NGO & CAI	33.097	Ended	Donation
Sweden	1994	Sonido Centro Juvenil Conchalí	Municip. Conchalí	Municip.	8.000	Ended	Donation
Switzerland	1996	Children's educ.: rehab. handicapped	Municip. Viña del Mar	NGO & CAI	28.000	Ended	Donation
European Union	1996	Prev. drug consumption SENAME	SENAME	Min. of Justice	496.600	Negot.	Donation
UN	1995	Asst. prep. & prev. teenage pregnancies	SERNAM/ MINEDUC	Multisectoral	70.000	Ended	Donation
UN	1996	Prev. teenage pregnancies	SERNAM	SERNAM	150.000	Exec.	Donation
UN	1996	Publication & follow-up PNI	MIDEPLAN	MIDEPLAN	27.000	Exec.	Donation
UN	1996	Elab. of PRIAs for regions III & VIII	MIDEPLAN	MIDEPLAN	10.000	Exec.	Donation
UN	1996	Analysis sit. children in rural areas	MIDEPLAN	MIDEPLAN	20.000	Exec.	Donation
UN	1996	Integr. children in indigenous communities	JUNJI	Min. of Education	10.500	Negot.	Donation
UN	1996	Training for nursery educ.	JUNJI	Min. of Education	3.000	Negot.	Donation
UN	1996	Pilot programme community radio	JUNJI	Min. of Education	3.000	Negot.	Donation
UN	1996	Discussions on training for nursery education II	MINEDUC	Min. of Education	13.000	Negot.	Donation
UN	1996	Educ. innovations in classroom teaching	MINEDUC	Min. of Education	65.000	Negot.	Donation
UN	1996	Tech. assist. human training	MINEDUC	Min. of Education	60.000	Negot.	Donation
UN	1996	MINJUS study children	MINJUS	Min. of Justice	24.000	Exec.	Donation
UN	1996	Technical support	MINJUS	Min. of Justice	27.000	Exec.	Donation
UN	1996	Prof. training prev. ill-treatment of children	INTEGRA	Min. of Justice	10.000	Ended	Donation
UN	1996	Seminar on childhood for journalists	INTEGRA	Min. of Justice	5.000	Ended	Donation
UN	1996	Fourth Convention on Rights of Child	PARL. COMM. HR	Legislative	5.000	Ended	Donation
UN	1996	Report on stories for sick children in hospital	Agua Viva	NGO & CAI	4.400	Ended	Donation
UN	1996	Publication PRIAs Regions I, III, VIII, XI	MIDEPLAN	MIDEPLAN	10.000	Exec.	Donation
UN	1996	Study: characteristics of child workers	MIDEPLAN	MIDEPLAN	50.000	Exec.	Donation
UN	1996	Study: integr. of disabled children in reg. educ.	MIDEPLAN	MIDEPLAN	2.500	Exec.	Donation
UN	1996	Support Committee on Maternal Breast-feeding	MINSAL	Min. of Health	20.000	Exec.	Donation
UN	1996	Reg. course on Rights of Child and Social Policy	Univ. Diego Portales	Universities	3.500	Exec.	Donation
UN	1996	Seminar on rights of child	Vicaria Pastoral Soc.	NGO & CAI	10.000	Ended	Donation
UN	1996	Support of Children's Parliament	Children's Parliament	Legislative	9.200	Negot.	Donation
UN	1996	Study: effectiveness of laws against ill-treatment of children	MINJUS	Min. of Justice	4.000	Exec.	Donation

Donor country or organization	***Year of project***	***Name of project***	***Executing agency***	***Institutional sector***	***Contribution of donor (dollars)***	***Present situation***	***Type of cooperation***
UN	1996	Study: children deprived of liberty	MINJUS	Min of Justice	8.000	Exec.	Donation
UN	1993	Study: frequency of violence in families	NGO	NGO & CAI	3.430	Ended	Donation
Germany	1995	Tech. assist. intermediate centres for juveniles	FOSIS/INI	Multisectoral	2.031.000	Negot.	Donation
Belgium	1997	Municipalization of schools system	PIIE	Universities	•	Exec.	Donation
Belgium	1997	Apprenticeship reading & dyslexia	Catholic Univ.	Universities	•	Exec.	Donation
Belgium	1996	Boys' and Girls' town	Children's Town	NGO & CAI	19.049	Ended	Donation
Belgium	1996	Carpentry training centre for mentally deficient boys	NEPE (NGO)	NGO & CAI	142.313	Exec.	Donation
Belgium	1997	Prog. children and juveniles at social risk	Corporación Chasqui	Foundation & Corp.	55.571	Exec.	Donation
Belgium	1997	Boys' and Girls' town	Children's Town	NGO & CAI	21.049	Exec.	Donation
Spain	1995	Interv. in case of ill-treatment of children	MINJUS/SENAME	Min. of Justice	103.199	Exec.	Donation
Spain	1996	Mobile libraries	DIBAM	Min. of Education	130.000	Exec.	Donation
Spain	1996	Women's particip. in society and politics	SERNAM	SERNAM	40.000	Exec.	Donation
Finland	1996	Aid to Chilean Children	PIDEE	NGO & CAI	53.763	Ended	Donation
Finland	1996	Kindergarten	Unicornio Azul	NGO & CAI	10.753	Ended	Donation
Finland	1996	Illapel educ. scheme for women & children	Finland/Chile Association	NGO & CAI	5.161	Ended	Donation
Netherlands	1993	Social integr.juvenile drug addicts (Temuco)	NGO	NGO & CAI	52.420	Ended	Donation
Italy	1995	Family and rural schools	CIDE	NGO & CAI	•	Negot.	Donation
Italy	1996	Video Canelo (educ. TV)	Canelo de Nos	NGO & CAI	210.754	Exec.	Donation
Luxembourg	1996	Training for marginalized youth in N. Santiago	Cristo Vive Foundation	Foundation & Corp.	1.010.806	Negot.	Donation

• Projects forming part of technical cooperation or on which no financial information is available.